1

Social Accountability

AN INTRODUCTION

Enrique Peruzzotti and Catalina Smulovitz

A SOMBER DIAGNOSIS has predominated in recent debates about and evaluations of the nature and quality of democracy in Latin America. Most authors seem to agree that the democratic regimes established in the last democratizing wave present serious institutional deficits, particularly in relation to the development of adequate and effective mechanisms of accountability. Most administrations, they argue, can effectively avoid the usual constraints posed by the various mechanisms of control of governmental decisions. Undoubtedly, these arguments call attention to the persistence of political practices and institutional deficits that prevent the consolidation of strong and accountable democratic institutions. However, the political stage has also been occupied by an array of social movements and a network of nongovernmental organizations (NGOs) demanding and monitoring the lawfulness of state actions, as well as by the outbreak of media scandals exposing numerous cases of corruption. This last phenomenon represents an innovative form of politicization in the region. The concept of social accountability places this disparate group of civil society– and media-based initiatives under a common analytical framework. Such politics, carried out by a diverse group of actors and

3

through multiple strategies, constitutes an alternative mechanism for the exercise of accountability regarding governmental actions.

In spite of the scope of these phenomena, recent evaluations of the institutional performance of Latin American democracies have belittled the significance of social mechanisms of accountability. Current debates on the nature of existing regimes tend to view the weakness of traditional mechanisms of accountability as their defining characteristic. The absence of an effective intrastate system of checks and balances, the lack of truly autonomous judicial institutions, and the existence of corruption at different levels of the public administration are frequently cited as evidence of such weakness. There is no doubt that these are powerful indicators of the institutional deficits currently confronted by Latin American democracies. Yet by focusing on traditional mechanisms of accountability—elections, the separation of powers, and the existence of a system of checks and balances among the various branches of government—those analyses ignore the growth of alternative forms of political control that rely on citizens' actions and media organizations. Moreover, these alternative mechanisms address some of the intrinsic limitations of elections as tools of political accountability, and they are crucial in activating an often reluctant network of intrastate agencies of control.

Although the literature on democracy has been haunted by a basic suspicion of the relevance of autonomous civil society in molding the nature of the democratic relationship, traditional understandings of accountability, concerned mostly with the availability and nature of institutional tools for control, have largely ignored the contribution of civil society to the exercise of control.[1] The concept of social accountability attempts to specify how such relationships work and what specific consequences they may have in fostering more accountable governments. The introduction of the concept aims to highlight the relevance of an analytical space that has been largely ignored by debates on accountability, shedding new light on the complex relationships between social actors and politics. It must be emphasized, however, that acknowledgment of the role of civil society in the exercise of accountability says nothing about the ideological orientation of actions. Recognition of the role played by civil society only admits the existence of an empirical phenomenon that needs to be analyzed in order to understand the workings of present-day democracies. Its empirical and normative consequences are open to further empirical study and theoretical debate—study and debate that this book is intended to promote.

Legal and Political Forms of Accountability

One of the elements that distinguishes liberal representative democracies from other types of regimes is their combination of an institutional framework of authorization of political power with a framework oriented to ensure the responsiveness and accountability of authorized agents. Insofar as representative democracy implies the existence of a fundamental gap between political representatives and citizens, it requires the existence of institutional mechanisms to guarantee that such separation does not result in unresponsive or illegal governments. The central question addressed by the concept of accountability is precisely how to regulate and reduce the gap between representatives and the represented while simultaneously preserving the differentiation between political authorities and the citizenry that characterizes the relations of representation.

Accountability refers to the ability to ensure that public officials are answerable for their behavior—forced to justify and inform the citizenry about their decisions and possibly eventually be sanctioned for them.[2] The accountability of political power can be established on legal or political grounds. The notion of legal accountability refers to a set of institutional mechanisms aimed at ensuring that the actions of public officials are legally and constitutionally framed.[3] As James G. March and Johan P. Olsen argue, this form of accountability is guided by a logic of appropriateness: political actors are judged according to what is considered proper procedure.[4] Through separation of powers, the recognition of fundamental rights, and a system of checks and balances, modern constitutionalism establishes the institutions that enable it to curb the arbitrariness of state power. The constitutionalization of state institutions by public law parcels state power into judicial, legislative, and executive branches and delimits state activity into rigorously circumscribed competencies.[5] In addition, fundamental rights provide institutional safeguards against unlawful encroachments by state officials against citizens.

Constitutional norms, legal codes, administrative procedures, and fundamental rights provide a legal-constitutional frame that constrains the actions of elected and nonelected public officials. As Wolfgang Schluchter argues, modern constitutionalism establishes an institutional setting characterized by "regulated discretion within the sphere of abstract norms." In such a setting, public officials move within a defined realm of competencies and jurisdictions: between the legal norm and a particular decision, there is a limited

5

realm of political discretion.[6] In sum, to hold a government legally accountable implies the ability to control governmental actions, to be certain that they do not infringe on the law or due process. For mechanisms of legal accountability to function effectively, a legal system capable of enforcing the law and making rulers obey it must exist. Without such a prerequisite, there cannot be enforcement of legal accountability.[7]

The concept of political accountability refers to the responsiveness of governmental policies to the preferences of the electorate. Political accountability is intimately intertwined with the concept of democratic representation. A government is politically accountable if citizens have the means to punish unresponsive or irresponsible administrations. It is usually assumed that elections are the central institution for this type of control.[8] They provide a regular mechanism for citizens to hold governments responsible for their actions, forcing out of office those incumbents who did not act in the best interests of voters and reelecting those who did.[9]

Citizens in representative democracies thus face an important challenge. Once they have delegated the task of governing to elected representatives, they need to ensure that their representatives' actions result in representative and legal governmental actions. Representative governments are both politically and legally accountable if citizens have the ability to make public officials answerable for their behavior, forcing them to justify their decisions and make them public, and if citizens can eventually sanction officials for their decisions or for unlawful acts.[10] How this is achieved, however, has proven to be problematic.

The literature on representation and accountability shows that since it is unclear what good representatives should do, it is uncertain what citizens need to control what they do and how they do it. Should citizens punish those representatives who, when acting in the best interests of others, promote policies that differ from those originally wanted or signaled by the electorate? Or should citizens punish those representatives whose actions, in respect for the signaled preferences of the electorate, lead to disastrous social outcomes? In other words, when "responsiveness" and "responsibility" are in conflict, how do citizens evaluate what is good representation, and how do they make representatives politically accountable?[11]

Other analyses have questioned the efficacy of the most privileged instrument of political control, thus casting doubt on the role of elections as mechanisms of accountability.[12] For authors such as Adam Przeworski, Susan Stokes, and Bernard Manin, electoral institutions have intrinsic limitations that make them inadequate as a mechanism for holding representatives accountable.

Elections, they argue, are ineffective as mechanisms of accountability, and consequently voters cannot induce governments to act responsibly. What factors prevent the efficacy of the vote as a mechanism of control? Przeworski, Stokes, and Manin provide three arguments. First, the nature of the vote is intrinsically limited, granting citizens only one chance to punish or reward numerous governmental decisions. Consequently, voters have very limited power in shaping the outcome of most governmental policies due to the inadequate nature of voting as a mechanism of control. Second, voting is a decentralized strategic action.[13] Since citizens cannot coordinate the orientation of their votes, there is no way of telling if a certain electoral result is prospectively or retrospectively guided. Third, the average citizen experiences a deficit of information that makes it difficult for her or him to adequately evaluate government performance and decisions.

Finally, the literature on legal accountability also shows that citizens face difficulties when they try to subject the actions of public officials to the rule of law. Citizens confront general difficulty when trying to make rulers obey the law. Some authors understand that citizens' problems coordinating the actions that will allow them to punish rulers who disobey the rule of law jeopardize the exercise of legal accountability.[14] Other authors stress that, in certain institutional contexts, such as those faced by newly established democracies, the main problem for the exercise of legal accountability rests on the absence of an independent judicial institution with the ability to enforce the law and make rulers obey it.[15]

In brief, the exercise of political and legal accountability faces two types of problems, the first intrinsic to the imperfect nature of the relationship of representation and the second deriving from the absence of certain institutional preconditions necessary for the effective functioning of controlling agencies. Both problems have generated a lively intellectual debate in Latin America. The institutional quality and performance of the newly established democracies has been a central axis of academic discussion and research, generating contrasting evaluations and interpretations of the quality and efficacy of accountability mechanisms in the region.

Democracy and Accountability in Latin America

Przeworski argues that the problem of accountability in Latin America does not differ from the problems of accountability faced by any democratic government. The difficulties confronted in the region, in his view, are generic to

democracy rather than the product of local and idiosyncratic characteristics. A brief review of the literature, however, shows widespread consensus regarding the lack of governmental accountability in most of the region.[16]

Guillermo O'Donnell, for example, argues that Latin American polyarchies display a notorious deficit of legal accountability, to the extent that he questions the representative nature of these regimes. In his view, many existing Latin American regimes are not representative but rather *delegative* democracies.[17] In delegative democracies, the process of the electoral authorization of representatives (which O'Donnell terms *vertical electoral accountability*) is not complemented by an effective system of intrastate agencies "that are legally enabled and empowered" to check and sanction unlawful actions by state agencies or political representatives (*horizontal accountability*). Elections authorize representatives—the president, in the case of delegative democracies—yet there is no network of agencies capable of controlling the actions of the executive. Popularly elected presidents, O'Donnell argues, rule free of constitutional or legal constraints. Although power is formally divided by the separation of powers and there is a formal system of checks and balances, the operation of these countervailing mechanisms is blocked by an executive who perceives him- or herself as the embodiment of democracy and the nation and views horizontal mechanisms as obstacles to executive actions.

For Matthew Soberg Shuggart, Erika Moreno, and Brian F. Crisp, the apparent dearth of "horizontal accountability" in Latin America is a result of "the malfunctioning of vertical accountability." Following Madison, they assert that the checks and balances characteristic of horizontal accountability rest on the "principle of countervailing ambitions." Thus, unless different interests and opinions are properly represented in horizontal agencies—that is, unless the institutional design that translates vertical relationships between voters and legislators is the right one—horizontal accountability will not follow. In their view, Latin American horizontal accountability fails because vertical accountability, due to the nature of Latin American electoral institutions, fails. They call for reform of those aspects of the electoral process—the candidate selection process, the election of legislators, and the appointment of "autonomous agencies"—that in their opinion jeopardize the proper exercise of vertical accountability.[18]

Finally, as the large body of literature on political clientelism, vote buying, and electoral fraud shows, many of the region's democracies present areas where the free exercise of political rights is jeopardized by authoritarian actors

who tamper with and manipulate electoral institutions.[19] Far from providing an effective mechanism of vertical accountability, elections in these areas contribute to the reproduction of authoritarian political structures.

In sum, there is generalized agreement that in Latin America, for generic or idiosyncratic reasons, both horizontal and vertical electoral mechanisms are weak. Some authors concentrate on specific cultural and institutional variables that conspire against the existence of accountable governments. It follows that if these obstacles are removed, more representative and accountable governments could be expected in the region. Other authors propose arguments of a different nature, highlighting the notion that deficits of accountability in Latin America are insolvable, deriving from the operative structure of the vertical mechanisms, which characterizes all democracies. The concept of social accountability addresses both kinds of arguments, drawing attention to the emergence of an alternative mechanism for rendering accountability that analyses of the last democratizing wave in Latin America tend to overlook.

Social Accountability as a Form of Control

O'Donnell's classification of accountability mechanisms as either horizontal or vertical follows a spatial metaphor. The words *horizontal* and *vertical* indicate the axis of operation of the controlling agencies. The concept of horizontal accountability thus refers to the operation of an intrastate system of controls, while the notion of vertical mechanisms implies the existence of external checks. Such a classification stresses the directionality of the system of control, as well as the arena(s) where exchanges take place. In the case of horizontal accountability, exchanges take place among a network of interacting state agencies that check and balance each other.[20] Vertical accountability instead implies the existence of an external social agent of control: mainly the electorate.[21] Elections represent a society-anchored agency of control, granting citizens the right to periodically punish or reward elected representatives with their vote.

Pursuing O'Donnell's metaphor, we would like to draw attention to another type of vertical mechanism that has been largely overlooked by current debates on accountability. Recent debates concerning the effectiveness of vertical mechanisms have focused exclusively on elections. While elections are the sole means for authorizing political representation, they do not represent

the only vertical tool for holding politicians accountable. Elections need to be complemented by an active civil society and autonomous media institutions. The concept of social accountability thus aims to incorporate insights from the literature on civil society and the public sphere into the analysis of accountability.[22] The workings of civic associations, NGOs, social movements, and media organizations not only add new resources to the classic repertoire of electoral and constitutional institutions for controlling government but can also, on occasion, compensate for many of the built-in deficits of these mechanisms.

Social accountability is a nonelectoral yet vertical mechanism of control of political authorities that rests on the actions of an array of citizens' associations and movements and the media. The actions of these groups monitor public officials, expose governmental wrongdoing, and can activate the operation of horizontal agencies. Social accountability employs both institutional and noninstitutional tools. The activation of legal actions or claims before oversight agencies is an example of an institutionally channeled action; social mobilizations and media exposés are examples of noninstitutional ones.

Social accountability operates neither through the electoral aggregation of votes nor as part of an intrastate system of checks and balances. Rather, social accountability relies on interested, organized sectors of civil society and media institutions that are able to exert influence on the political system and public bureaucracies. The monitoring activities of many NGOs and the workings of a wide array of social movements, civic associations, and media organizations organized around demands for legality and due process expand the classic repertoire of electoral and constitutional institutions for controlling government and on many occasions might serve to improve and complement them or to compensate for many of their built-in limitations.

Unlike electoral mechanisms, social accountability can be exercised between elections and does not depend upon fixed calendars. It is activated "on demand" and can be directed toward the control of single issues, policies, or functionaries.[23] Like horizontal mechanisms, social ones can oversee the procedures followed by politicians and public officials while making policy.

Vertical, horizontal, and social accountability mechanisms also differ in the way they impose sanctions. The specific arena in which each of these mechanisms operates determines the resources available for their exercise of control. Unlike those exercising electoral and horizontal controls, actors using social mechanisms can perform watchdog functions without the need for special

majorities or constitutional entitlements. Indeed, while actors operating in the electoral environment need to maximize the *extension* of their support in order to control the policies of representative bodies, those operating in the social environment can rely on the *intensity* of their claims and/or their impact on public opinion. Social mechanisms also differ from horizontal and vertical (electoral) mechanisms insofar as the sanctions they entail are, in most cases, not formal but symbolic.

The Aim of Social Control

What can be controlled? The mechanisms of social accountability are oriented toward making governments legally accountable. They entail a diverse group of civil society initiatives and media exposés organized around demands for the rule of law and due process. By exposing and denouncing cases of governmental wrongdoing, activating horizontal agencies of control, and monitoring the operation of those agencies, mechanisms of social accountability make a crucial contribution to the enforcement of the rule of law. Public exposure of issues and wrongdoing not only generates symbolic costs to the officials or agencies suspected of wrongdoing but also, by bringing cases of corruption or official misconduct into the public agenda, forces political institutions to address these cases and raises the actual costs of illegal or improper political behavior.

Given that social mechanisms do not depend on fixed calendars but operate in a decentralized and "piecemeal" way, they can avoid some of the structural problems of electoral mechanisms.[24] Each exercise of social control can have specific goals, and citizens do not need to use one instrument to achieve many purposes simultaneously. Such a piecemeal approach allows citizens to focus their attention on those policies and/or politicians they seek to control. Unlike electoral mechanisms, social ones are not blunt instruments used to evaluate all the actions and actors within an administration. Although they are more demanding in terms of participatory efforts, they allow for selective control, signaling, and the sanctioning of specific actors or behaviors.

Actors

Who are the actors that can exercise controls? Traditionally, the list was limited to individual citizens; political parties with parliamentary representation;

and the legislative, judicial, and executive branches of government. The concept of social accountability, on the other hand, draws attention to the control initiatives exercised by actors such as civic associations, NGOs, social movements, and the media that have been commonly neglected by the literature on accountability.[25] Important changes in civil society and the media have followed the last wave of democratization in Latin America. On the one hand, new civic associations and NGOs have sprouted throughout the region—human rights organizations, civic networks that monitor elections to prevent fraud, social movements against police abuse and violence, and citizens' organizations that demand clearance of public information. On the other hand, the region has witnessed the emergence of a more inquisitive type of journalism that is playing an important watchdog role in relation to public authorities. Both developments are vivid examples of the growth of an innovative type of politics in the region organized around demands for rights and accountability.

One of the forerunners of innovative civil society–based politics is the network of human rights organizations that emerged under authoritarian rule in several countries of the region, including Argentina, Brazil, Chile, Mexico, and Peru. The significance of such social actors for political life is that they inaugurated a new form of rights-oriented politics aimed at drawing clear institutional boundaries between state and civil society and restricting the discretionary use of state power.[26] A major legacy of the politics of human rights was the establishment of a permanent associative network composed of human rights groups, legal aid associations, movements and organizations against police violence, and so on, which plays a crucial watchdog role in the defense of social autonomy.

Human rights organizations are not the only civil society–based initiatives organized around demands for rights and accountability. In recent years, many civic associations, NGOs, and social movements organized around issues of accountability have flourished throughout Latin America. While their agendas have been broad, ranging from environmental issues to consumer rights, four main areas have been tackled by such groups: (1) citizen security, (2) judicial autonomy and access to justice, (3) electoral fraud, and (4) governmental corruption.

Security issues were prominent in the public agenda of the last decade, particularly acts of police violence against disadvantaged groups. Numerous episodes of state violence against sectors of poor and marginal populations have sparked a wave of social mobilizations demanding justice and police re-

forms. In Argentina and Brazil, a series of unrelated incidents of police violence led to the organization of local social movements and the establishment of permanent society-based monitoring associations. In addition, the death of two army privates serving in the Argentine and Chilean armies, as a result of abuses by their superiors, also generated popular responses and triggered scandals that, in the Argentinean case, led to the end of the military draft. In Peru, the Coordinadora Nacional de Derechos Humanos, a nationwide network of Peruvian human rights organizations, and the National Ombusdman Office repeatedly questioned the practice of the military's compulsory draft in rural areas, generating a broad debate and even a presidential acknowledgment of the need to reform or end the military draft.

Demands for *judicial autonomy* have also ranked high on the agenda of the media and civil society organizations. There are two different types of demands and initiatives: (1) movements organized around cases in which the provision of impartial justice seems to be jeopardized due to the control exerted by political authorities over the judiciary[27] and (2) initiatives by NGOs and civic organizations to reform the judiciary and promote the access of disadvantaged groups to justice. Initiatives of the first type have been advanced mostly by mobilizations of sectors of the population that find themselves in a disadvantaged position as a result of operating in geographical areas where legal guarantees are virtually absent or frequently violated.[28] Generally, these movements are organized around specific cases and a single claim: to a fair trial. In many cases, their efforts concentrate on monitoring police investigations and judicial proceedings to prevent political authorities from tampering with the evidence or influencing the proceedings. Argentina is perhaps the country that offers the most examples of this type of initiative (the María Soledad case, the Nahir case, the Cabezas case, the Carrasco case, etc.). In Peru, the Ombudsman Office (Defensoría del Pueblo) has also played an important role in monitoring and denouncing the actions of the judiciary under Alberto Fujimori.

Initiatives of the second variety have targeted the judiciary and the problem of judicial autonomy. Organizations such as Corporación para la Excelencia de la Justicia, in Colombia, and Poder Ciudadano, in Argentina, have organized campaigns for the legal education of the citizenry and established programs that deal with different aspects of judicial performance and reform. Problems of access to justice have occupied a prominent place on the agendas of many of organizations. In Colombia and Peru, Fundación para la Defensa

del Interés Público (FUNDEPUBLICO), Viva la Ciudadanía, the Comisión Andina de Juristas, and the Instituto de Defensa Legal (IDELE) have played an important role in developing new legal instruments to improve defense of the rights of ordinary citizens and their access to justice. The incorporation in recent constitutional reforms of several of these instruments (e.g., Acciones de Tutela, Acción de Cumplimiento, Acción Popular, etc.) has resulted in an increase of legal mobilization. In addition, public interest law is being promoted by several organizations in the region, like Formación Jurídica para la Acción (FORJA) in Chile; FUNDEPUBLICO and Viva la Ciudadanía in Colombia; and Poder Ciudadano, Asociación por los Derechos Civiles, and Clínica Jurídica of the Universidad de Palermo in Argentina.[29]

Electoral observation is the third area in which social initiatives have been concentrated. Civic and media initiatives against electoral fraud have played a crucial democratizing role in Mexico and Peru. In both cases, a network of organizations oriented toward monitoring the electoral process to ensure fair elections has emerged and expanded. In Mexico, Alianza Cívica was formed in 1994 as the result of a coalition of civic groups interested in developing an autonomous network for electoral observation. The contribution of this movement to Mexico's democratization has been remarkable. Its actions have contributed greatly to electoral reform; the 1996 electoral code incorporated most of the demands of the movement and led to the establishment of an impartial electoral authority that made possible fair and competitive elections. In Peru, Foro Democrático and Transparencia were active in denouncing fraud and pushing for change of the electoral laws passed by President Fujimori. Foro Democrático organized a campaign calling for a referendum to block Fujimori's reelection, which, despite collecting two million signatures, was ignored by the legislature. Transparencia was created in 1994 with the goal of monitoring elections and was eventually able to establish a nationwide network of observers.[30]

Finally, the issue of *governmental corruption* has received wide attention from both the media and civil society. On this terrain, the media has played a central role in exposing governmental wrongdoing. The region has been shaken by numerous media scandals targeting governmental corruption at all levels of the public administration, from low-ranking civil servants to the presidential office. Civic initiatives have also been important in developing innovative tools for controlling governments. For instance, some civic organizations have developed programs to monitor the financial assets of public officials (Poder

Ciudadano in Argentina and Alianza Cívica in Mexico). The Colombian constitution established the Veedurías Ciudadanas, ad hoc civic committees to oversee governmental actions and procedures. Perhaps the most famous *veeduría* was the one established to monitor the impeachment of then-president Ernesto Samper on corruption charges. The *veeduría* was highly critical of the works of the parliamentary body in charge of the impeachment procedures and published a detailed document denouncing irregularities.[31] Other *veedurías* have been constituted with the aim of supervising public bids and the process of the privatization of Bogotá's public phone company.

Important developments in the postauthoritarian era brought new conditions for the operation of the media. First, the consolidation of democratic regimes has drastically redefined the environment in which the media operates. The reestablishment of constitutional guarantees and the end of state violence and censorship greatly contributed to the practice of critical reporting. Second, in many countries the media underwent a process of privatization, deregulation, and conglomeration that greatly changed the structure of media industries.[32] Such policies led to a transition from family-controlled media organizations to the emergence of large and diversified multimedia corporations. While media concentration conspires against the democratization of media access, the shift to a market system has nevertheless generated a more independent journalism. The decoupling of media industries from the state opened up the possibility of a critical journalism that has played a central role in exposing official wrongdoing and corruption and has also been an important actor in the politics of social accountability.[33] Many civic claims for equal treatment under the law, due process, or judicial independence began to exert considerable pressure on the political system only after they attained significant media coverage and visibility.

Press exposés have exerted a considerable toll on numerous public officials. In Brazil and Peru, disclosures of corruption brought down the Collor and Fujimori administrations. In Colombia, investigations of contributions made by the Cali cartel to the 1994 electoral campaign seriously weakened Ernesto Samper's presidency. A newspaper investigation of an illegal sale of weapons by the Argentine government to Ecuador during the Ecuador-Peru war led to the house arrest of former president Carlos Saúl Menem. The political crisis generated by the Senate scandal in Argentina severely damaged the governing coalition after Vice-President Carlos Alvarez resigned in disagreement with the way President Fernando de la Rúa handled the situation.

Sanctions

How do social actors sanction what politicians and bureaucrats do? The question is critical insofar as most definitions closely link the notion of accountability with the capacity to enforce decisions. We have already posited that the main resource available for social control is the intensity and visibility of "voice" and that most social controls expose wrongdoings but do not have mandatory effects.[34] For these reasons, some authors have regarded such mechanisms as window-dressing rather than as real checks on power.[35] It is our contention, however, that even when social mechanisms do not have mandatory effects, they can still have "material consequences." On the one hand, they impose reputation costs that may have damaging political consequences. In contexts where political survival rests on the extension of support, public officials cannot easily disregard threats to their reputations. Such threats could make a difference to their survival. On the other hand, in many cases social mechanisms are a necessary condition for the activation of those mechanisms that have "teeth." Social controls activate the operation of other agencies of accountability, such as judiciary or congressional investigative commissions. Indeed, in many cases, unless social mechanisms "turn on the alarm," vertical electoral and horizontal mechanisms do not start to work.[36]

If this is the case, we should ask how social mechanisms impose these sanctions and how they relate to other mechanisms of accountability. First, social mechanisms control by *exposing and denouncing wrongdoings.* Denunciations of specific cases provide vivid illustrations of shortcomings in the performance of horizontal agencies or wrongdoings of political representatives or bureaucratic agents. Exposition and denunciation of wrongdoings allow the identification of real victims and their victimizers, as well as determination of the scope of the damage done. Denunciations signal the existence of issues in a way the citizenry can relate to and, in doing so, place specific issues in a wider context. In signaling a problem, denunciations may produce changes in the social appreciation of a particular phenomenon, transforming it into an issue on the more general public agenda.[37]

When signaled problems become new issues on the public agenda, the number and scope of the topics under surveillance increase. Therefore, signaling and exposing behavior may have two different results. On the one hand, exposure can lead to the control of specific issues or claims. On the other hand, when the signaling and exposing of specific problems transform them into

topics on the public agenda, the number of issues under surveillance increases. Indeed, by expanding the number of issues included on the public agenda, the signaling effect shows another way in which social mechanisms work. When signaling a problem results in the incorporation of a new topic on the public agenda, it enlarges the number of questions for which public officials can be held responsible and must answer. Therefore, social mechanisms also contribute to the exercise of horizontal and vertical controls, insofar as they may result in the extension of the scope of conflicts and issues public officials are obliged to inform the citizenry about.[38]

Second, social mechanisms control because they can *activate the operation of horizontal mechanisms.* The activation of horizontal mechanisms may result (1) when a social movement organizes and mobilizes around a particular demand or claim; (2) when the media gives coverage to actions or claims of a particular movement or when it develops its own investigation in regard to an issue;[39] or (3) when individuals or associations activate regular local judicial proceedings, international ones, or oversight agencies. These actions may result in the activation of horizontal and vertical mechanisms because they involve an increase in the reputation costs confronted by public officials and the threat of being taken to court.[40]

In democratic contexts, where the political life of elected officials depends on getting the greatest number of votes, the reputation costs that may result from these actions can become a dangerous threat to survival.[41] Therefore, it can be expected that elected officials will be willing to exchange the appeasement of negative reputation costs for the activation of control mechanisms or that they will avoid the commission of acts if the anticipated costs of disregarding social demands is considered high. This dynamic highlights, in turn, the fact that to assess the relationship among social, vertical, and horizontal mechanisms we need to understand how and when reputation costs achieve a threat level capable of activating the other mechanisms.

Social mechanisms can activate horizontal and vertical ones indirectly or directly. They indirectly activate them when they produce reputation costs, through social mobilization or media denunciation. In these cases, the efficiency of social mechanisms is mediated by public officials' evaluation of the anticipated costs of denunciation and by the assessment the electorate makes of specific denunciations. Therefore, although denunciation may be effective, it is not certain that public officials will necessarily evaluate the risks faced in a unique fashion or that they will act accordingly. Neither is there a guarantee

that the electorate will consider denunciations when casting its vote. If public officials become convinced of the harmful effects of reputation costs, social mobilization, or press denunciations, they may attempt to minimize them by taking or reversing decisions to appear responsive to the public. Such decisions could entail the activation of judicial procedures, parliamentary investigative commissions, or policy changes.[42]

Indirect activation of horizontal mechanisms is possible because claimants organize and mobilize but also because they reach the media or the media reaches them. Regardless of the media's reasons for covering some of these events, one consequence of this new media role has been its simultaneous conversion into public prosecutor and judge.[43] Thus, once the media was revealed as an effective mechanism for controlling and accelerating public decisions, civil society organizations used this discovery to gain access to an alternative route to justice, to get attention from the public authorities, and to informally judge presumed illegal activities.[44] In some countries, this new press role has led to the emergence of a strong and sometimes threatening investigative journalism.

Social mechanisms can also result in the activation of horizontal ones without this type of mediation, when, for example, individual or social legal mobilization activates judicial proceedings or oversight agencies.[45] Since state authorities must respond to legal petitions, successful legal petitions advanced by individuals or associations allow the use of the state coactive powers to pursue desired interests. For these reasons, some authors have argued that legal mobilization can be considered the paradigmatic form of democratic participation.[46] Insofar as legal demands force the state to publicly and officially reply to advanced legal petitions, legal mobilization (individually or collectively engineered) could lead to the activation of horizontal mechanisms of control. It is worth noting that legal mobilization is the only form of social accountability that may end up having mandatory effects.

Before considering a third way in which social accountability produces control, one caveat: we have shown that social mechanisms can give visibility to and articulate the demands of actors who might be disregarded in the representative arena. While electoral mechanisms (and some horizontal mechanisms) can only be activated and justified on majoritarian grounds, social mechanisms derive their legitimacy from the right of citizens to petition for the enforcement of the rule of law, a right that does not require the demand to be widespread.[47] In both cases, electoral and social, "voice" is the mechanism available for control.[48] For electoral mechanisms to be effective, many people

must voice the same claim; if they do, the effects can be mandatory. In the social arena, on the other hand, although the "voice" needs to be strong and intense, it does not need to be extensively represented. Presence rather than extension justifies the demands.

If those actors excluded from the representative arena are capable of making sufficient "noise" and are able to place issues on the agenda, it is possible that social mechanisms may force representative ones to consider topics that majoritarian requirements would convert into "nonissues."[49] However, since social mechanisms do not necessarily legitimize themselves on representative grounds, this may have ambiguous social consequences in terms of equal representation. This reveals one of the drawbacks of this type of control: the preferences of a loud and persistent minority may end up being "overrepresented."

Finally, social mechanisms control insofar as they sometimes result in the *establishment of parallel "social watchdog" organizations* that monitor the performance of specific public agents or offices. Experience provides examples of cases in which some particular issue has become the object of recurrent denunciations, resulting in the establishment of civic associations designed to continuously oversee the behavior of certain public officials in specific policy arenas. The institutionalization of some of these denunciation movements into more permanent organizations has resulted, in some cases, in the establishment of a parallel society-based structure of oversight actors.[50] Indeed, some of these social watchdogs have become guardians of the guardians attempting to enhance the performance of horizontal controls.

The Strategies of Social Accountability in Latin America

The exercise of social accountability in Latin America is taking place in three main areas: through the judiciary, through mobilization, and through the media. Although the strategies employed in these areas usually interact and feed each other, they can be distinguished by the main resources employed in demanding accountability.

Judicialization

The juridical or legal strategy entails submission by individuals or social actors of legal claims or legally framed petitions to the courts or other control

19

agencies. This strategy has become an instrument that individual citizens and social actors use to force the state to intervene in political and social disputes public officials want to avoid or ignore.[51]

The transformation of social demands into legal claims serves two purposes: (1) it provides a legitimacy "seal" for the petitions, and (2) it forces the state to take a stand on the advanced claims. Civil society's use of the juridical strategy is part of the broader process of the judicialization of politics that is taking place globally.[52] This process is characterized by an increase in the number of regular legal claims, the appearance of new legal institutions that expand the ways citizens may petition for rights, and a greater number of actors authorized to make claims. Latin America has participated in all these developments.

In recent decades several countries in the region have experienced a sharp increase in litigiousness, encouraged by two distinctive forms of judicialization: on the one hand, litigation through regular judicial procedures and, on the other , petitions that use recently created institutional tools and those oriented toward recently established control agencies. Examples of the first type can be found in Argentina, Brazil, and to a lesser extent Chile.[53] The discovery of the courts is the result of the new place judicial institutions have started to occupy since the democratic transition. The revalorization of these institutions has placed them on the center stage of public life. The expansion of the use of traditional legal resources, however, is not necessarily linked to their effectiveness. It is worth mentioning that growth in legal petitioning parallels growth in skepticism about the performance of the judicial power. Therefore, it is possible to speculate that the increased use might be associated with the expressive needs of the actors involved rather than with a pragmatic search for solutions.

The last wave of constitutional reforms, which introduced many new institutional tools for demanding citizen rights, gave rise to the second form of judicialization. For example, the 1991 Colombian constitution established several institutional mechanisms for the protection of rights and for citizen participation. One of them, the so-called *acción de tutela,* allows any citizen to demand the immediate protection of fundamental rights in any court and without mandatory legal assistance. A study conducted by the Secretaría General del Consejo Superior de la Judicatura shows that between 1991 and 1999, the Colombian courts sent 213,404 *acciónes de tutela* to the constitutional courts.[54] In Brazil, two different institutions demonstrate the existence of a similar trend.

On the one hand, the inclusion in the 1988 constitution of the Açao Direta de Inconstitucionalidade expanded the number of actors authorized to initiate constitutional controls of rights.[55] A recent study by Luiz Werneck Vianna and others shows that the majority of the 1935 Açao Direta de Inconstitucionalidade presented between 1988 and 1998 were interposed by civil society organizations, public prosecutors, and left-wing parties.[56] On the other hand, as Rosangela Batista Calvancanti shows, the expansion of the responsibilities of the Public Prosecution Office has resulted in the emergence of an institution that, with regional variations, is acting as an agent of control and oversight of citizen rights and governmental actions. Its records show that at least 195 mayors and ex-mayors have been convicted for illegal acts while in office.

The creation of ombudsman offices has also contributed to the increase in the judicial oversight of rights and of administrative actions. In the last decade, national, regional, provincial, and municipal ombudsman offices have been created in Argentina, Bolivia, Brazil, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Peru, and Venezuela. Official reports of the workings of these agencies in Argentina and Peru show a continous increase in the number of claims made by citizens. While 104,225 claims related to the actions of public administrators and agencies were presented in Argentina between 1994 and 1999, the Defensoría del Pueblo in Peru received 97,594 claims between 1996 and 2000.[57] Regardless of the actual achievements of all these new institutions, their proliferation and the increased use of petition mechanisms show the availabilty of new and alternative institutional tools for the exercise of control. Although their effectiveness still needs to be systematically studied, their recent explosion and potential control capacities cannot be ignored.

Another phenomenon that has fostered the significance of the legal strategy as a control mechanism has been the development of the "public interest law movement": a network of NGOs with a shared commitment to using the law to advance the protection of civil and human rights, as well as other social, cultural, and economic rights.[58] NGOs like FUNDEPUBLICO in Colombia; CELS (Centro de Estudios Legales y Sociales), Poder Ciudadano, and the Asociación por los Derechos Civiles in Argentina; IDELE and the Comisión Andina de Juristas in Peru; and FORJA and the Law School of the Universidad Diego Portales in Chile are prominent members of this network. Although their efforts cover a wide variety of topics, some have had a significant impact on controlling governmental actions. They attempt to control by filing actions

demanding that governments or bureaucracies realize granted rights, taking advantage, in turn, of newly introduced constitutional reforms. They have focused, for example, on demanding that the police comply with their obligation to provide information about detained people (CELS); demanding that the Argentine national government make available a vaccine that, due to the fiscal crisis, it had discontinued, violating its obligation to protect the health rights of the population (CELS—Universidad de Palermo); demanding that the Colombian government take responsibility for the collective injury resulting from governmental corruption (FUNDEPUBLICO); and reprimanding privatized telephone companies for failing to follow required procedures in deciding to raise their rates.

Social Mobilization

Social mobilization is the second strategy employed in the exercise of social accountability. In this case, control is achieved when organized social actors are able to call attention to a particular problem or claims related to a perceived public wrongdoing. Traditionally, the study of social movements has concentrated on the impact that social mobilization may have on the satisfaction or defense of material needs or on the achievement of particular goals. Here, we concentrate on the use of social mobilization as a tool to demand legal accountability. This specific use is linked with the emergence of new forms of associative life in the region. One novelty of the last democratizing wave was the emergence of civil society organizations that demand due process and proper procedures. Their appearance implies a significant change in a political and social scenario that used to be mainly characterized by distributional conflicts and demands. Now public officials also have to deal with uncoordinated actors who demand not only public reasons for officials' actions but also that public acts follow proper procedures.

For social mobilization to be successful, a problem must become visible, must mobilize and aggregate public opinion, and must threaten or impose reputation costs to public agents who value and need to protect their reputations. If these factors coincide, that is, if the mobilization strategy calls attention to specific wrongdoings, aggregates important sectors of the population, and raises reputation costs, then other sanctioning mechanisms might be activated. The efficiency of the mobilization strategy is mediated by public officials' evaluation of the anticipated costs of denunciation. Therefore, although this strategy

can be effective, it is not certain that public officials will necessarily evaluate the risks faced in a distinctive fashion or act accordingly. If public officials become convinced of reputation costs, they may attempt to minimize these costs by trying to appear responsive to the public.

As the following examples illustrate, although social mobilization can take place in conjunction with a legal strategy, this is not always the case. Indeed, many campaigns demanding information about the financial assets of public officials or denouncing electoral fraud or the extent of police violence are not intended to bring about legal claims. Police abuse, the corruption of public officials, and electoral fraud are now in the public eye because NGOs like Nucleo de Estudos da Violencia and Viva Rio in Brazil, CELS and CORREPI (Coordinadora contra la Represión Policial e Institucional) in Argentina, and Alianza Cívica in Mexico have been able to provide documentation and mobilize intense public support. As the experience of Alianza Cívica shows, not only have these organizations succeeded in placing such topics on the public agenda, but they have also become credible and authoritative advocates.

In contrast to those cases in which the social mobilization strategy has led to the formation of relatively permanent social watchdog organizations, the strategy has also been activated by circumstantially organized movements. In Argentina, for example, the "María Soledad," "Cabezas," and "Carrasco" cases illustrate such a use of the strategy by movements demanding application of the rule of law and investigation of the behavior of public officials.[59] In each of these three cases, a murder gave rise to a claim for justice and to social mobilization aimed at guaranteeing that public authorities did not obstruct the investigation and the judicial process. In each case, a local and circumstantially organized movement aggregated public opinion around demands for justice and due process. The press and the population followed the development of the investigations and the judicial process closely. The cases ended with trials and condemnations of the culprits. In each of the three cases, once the demand for due process had been fulfilled, the social movement that activated the case dissolved.

Mediatization

The mediatic strategy is the third available for the exercise of social accountability. Social accountability requires visibility, and the media is the most important instrument to achieve this goal. The strategy works because, as in the

mobilization strategy, visibility imposes reputation costs on public agents who need to protect their reputations to hold public office. It can be activated either by individual journalists and media organizations or by citizens and civil society associations.

In recent years, two significant developments have taken place in this arena. On the one hand, a more aggressive investigative journalism has emerged. In several countries of the region, the media has played a central role in exposing abuses and keeping governments in check. In Argentina, for example, the social prestige of journalists has increased, along with the circulation of certain newspapers and magazines that specialize in denunciation. Newspapers such as *Página 12,* TV programs such as *Telenoche Investiga,* and magazines such as *Revista XXI* are all examples of this trend. In Brazil, press denunciations started the process that led to the impeachment of Fernando Collor de Melo in 1992. In Peru, the case of "La Cantuta," exposed by the newsweekly *Sí,* led to an investigation of the massacre of a group of college students by military squads.[60] More recently, a videotape aired by Peruvian television showing a high-ranking public official bribing an opposition legislator led to the scandal that initiated the end of the Fujimori government. Journalists have also uncovered, through the use of hidden cameras, evidence of the dubious behavior of low-level bureaucrats, such as the employees of a pension-fund agency and police agents soliciting or receiving bribes.[61]

On the other hand, citizens and civil society organizations seem to have discovered the power of the media to create public agendas, influence public officials, accelerate decisions, and condemn presumed or real violators of the law. Indeed, that is how the media functioned in the "María Soledad," "Carrasco," and "Cabezas" cases.[62] Citizens have also resorted to the media to demand "small claims." Indeed, in most countries, in addition to big scandals, newspapers and radio and TV programs are offering special, significant spaces dedicated to voicing citizens' discontent with public offices and policies. Examples can be found in the "Línea Directa" column in *El Mercurio* or in TV programs such as *El Ciudadano* in Argentina.

Although not all exposés have led to indictments, civic and social demands for legal accountability began exerting considerable pressure on governments only after significant media coverage. In spite of its effectiveness, this use of the media, characterized by some authors as the politics of shaming, has raised questions regarding the protection of individual rights.[63] Media accusations, even if unsubstantiated, create the perception of guilt. When the media is effec-

tive in drawing attention to a case, the rules of evidence are turned on their head: those accused of corruption are perceived as guilty until "proven innocent." Consequently, recognition of the media's new role as a mechanism of accountability cannot ignore the risks that this may pose for individual rights.

The other caveat to consider in regard to the performance of the media is related to the impact that the economic and political considerations of media firms have on the assertiveness and selection of their denunciations. As Silvio R. Waisbord has mentioned, the investigative capacity of the media and the selection of cases investigated depend on the economic interests of media firms: "when media enterprises had to court the state rather than the market to achieve commercial success, their willingness to sponsor investigative journalism decreased."[64] Therefore, although recent events show the emergence of an aggressive watchdog journalism, it should be remembered that the situation could be reversed if the economic needs of media firms changed and if the tactic of selling exposés became less attractive.

One final note: as in-depth analysis of particular cases demonstrates, social accountability has a greater chance of being effective when the three strategies interact.[65] That is, its goals are achieved when citizens not only initiate a legal action but also support that action with some kind of social mobilization and some sort of media exposure. There is no sequential relationship among these strategies. Their joint activation determines the ability to draw attention to a problem and make evident the costs that public authorities should appease or avoid. In contexts in which claims are backed with mobilization and media exposure, the likelihood of authorities' postponing or ignoring legal demands is less likely. In these cases, the exercise of social accountability has a greater chance of being successful because the task of control is distributed among different agencies with autonomous interests and because the number of external eyes overseeing the situation increases. Indeed, when the three strategies are simultaneously present, each one controls each other and prevents attempts to hide its consideration. The media observes and reports on the organization and mobilization of civil society; civil society organizations listen to and impel the media at the same time that they activate legal actions. This continuous observation forces state institutions to give preferential treatment to a problem.

Is SOCIAL accountability an effective instrument of control? Ultimately, of course, this is an empirical question. On the one hand, given the penalties that

social accountability may impose, public officials may conclude that it is more convenient to abandon certain practices that bring about reputation and/or judicial costs. On the other hand, since public officials can anticipate which activities or policies may bring about social penalties, this could lead to the development of more sophisticated and subtle procedures to "survive accountability," as José María Maravall has warned.[66] Indeed, the question is not whether such strategies can be effective, as in many cases they have proven they can be, but for how long and what type of issues can they control. Table 1.1. describes the different mechanisms and resources that each type of accountability strategy can use to its advantage.

The aim of this book is to analyze the implications of the operation of social mechanisms of accountability, examining from different angles the contribution of civil society and the media to accountable government in Latin America. The chapters provide theoretical reflections about the relation of civil society to the problem of accountability, as well as interesting debates about the current status of accountability mechanisms in Latin America, and analyze concrete cases drawn from the Latin American context.

The concept of social accountability has great potential for controlling governmental actions in representative democracies in general and in situations, such as the Latin American one, where the citizens' ability to control governmental actions has been questioned. Many roads can lead to the exercise of accountability. Some of them are different from those usually acknowledged by democratic theory. Although this book illustrates the fact that alternative social paths cannot be disregarded, numerous issues have been left open for further empirical research and debate. How, specifically, do social mechanisms impose controls? How may they be sustained? However, in spite of the remaining tasks, the discussion reveals that for democracies to achieve politically and legally accountable governments, the relationship between institutional mechanisms and specific social actions and actors should not be overlooked. Social mechanisms constitute an alternative mechanism for imposing costs on political actors and are a necessary condition for the operation of those institutional mechanisms that have mandatory sanctioning capacities. In other words, they show that the efficiency of horizontal and vertical controls depends on the ability of social actors to remind public agents that they can be sanctioned.

1.1 Types of Accountability

Who Controls	What Is Controlled		
	Actors	Politicians	Bureaucrats
HORIZONTAL ACCOUNTABILITY[a]			
Balancing	Executive power	Veto	Policy setting
			Regulation
			Administrative oversight
			Nomination and demotion of personnel
	Legislative power	Impeachment	Policy setting
			Regulation
			Administrative oversight
			Nomination and demotion of personnel
	Judicial power	Judicial review	
Mandated	Oversight agencies	Control of law abidance	Control of law abidance
		Investigative and denouncing faculties	Investigative and denouncing faculties
VERTICAL ACCOUNTABILITY			
Societal	Civic associations, NGOs, and social movements	Social mobilization and public denunciation	Social mobilization and public denunciation
		Denunciation by oversight agencies	Denunciation by oversight agencies
		Agenda setting	Agenda setting
			Litigation
	Media	Investigation and public denunciation	Investigation and public denunciation
		Agenda setting	Agenda setting
Electoral	Individual citizens	Voting	

[a] We are following Guillermo O'Donnell's classification of accountability mechanisms (see "Horizontal Accountability: The Legal Institutionalization of Mistrust," in Scott Mainwaring and Christopher Welna, eds., *Democratic Accountability in Latin America* [Oxford: Oxford University Press, 2003]).

NOTES

1. For some exceptions, see Víctor Pérez-Díaz, *Spain at the Crossroads: Civil Society, Politics and the Rule of Law* (Cambridge: Harvard University Press, 1999); Jonathan Fox, "Civil Society and Political Accountability: Propositions for Discussion," paper presented at the Conference on Institutions, Accountability and Democratic Governance in Latin America (Helen Kellogg Institute for International Studies, University of Notre Dame, May 8–9, 2000); Nuria Cunill Grau, *Repensando lo Público a Través de la Sociedad: Nuevas Formas de Gestión Ública y Representación Social* (Caracas: Nueva Sociedad, 1997).

2. Andreas Schedler, "Conceptualizing Accountability," in Andreas Schedler, Larry Diamond, and Marc F. Plattner, eds., *The Self-Restraining State: Power and Accountability in New Democracies* (Boulder and London: Lynne Rienner Publishers, 1999), 14.

3. In most constitutional democracies, there are various mechanisms available to guarantee that governments abide by the law and due procedures, e.g., courts, ombudsmen, inspectors, auditors, special appeals tribunals, complaint procedures, committees of parliament, etc. For a general overview of some of these institutions and mechanisms, see D. J. Galligan, "Making Government and Administration Accountable," paper presented at the Comprehensive Legal and Judicial Development Conference (Washington, D.C., June 6, 2000).

4. James G. March and Johan P. Olsen, *Democratic Governance* (New York: Free Press, 1995), 154.

5. Guillermo O'Donnell's concept of horizontal accountability centers on this aspect of the concept of accountability.

6. Wolfang Schluchter, *The Rise of Western Rationalism: Max Weber's Developmental History* (Berkeley: University of California Press, 1981), 111–12.

7. There seems to be widespread agreement among Latin American political analysts on the absence of such a prerequisite in most of the region. See Gabriel Negretto and Mark Ungar, "Judicial Independence, Rule of Law, and Democratization in Latin America" (mimeograph); Juan E. Méndez, Guillermo O'Donnell, and Paulo Sérgio Pinheiro, eds., *The (Un)Rule of Law and the Underprivileged in Latin America* (Notre Dame: University of Notre Dame Press, 1999); and Enrique Peruzzotti, "Modernization and Juridification in Latin America: A Reassessment of the Latin American Developmental Path," *Thesis Eleven,* no. 58 (Aug. 1999), and "Civil Society and the Modern Constitutional Complex: The Argentine Experience," *Constellations: An International Journal of Critical and Democratic Theory* 4, no. 1 (1997). For a more general discussion of problems related to the enforcement of the rule of law, see Russell Hardin, "Why a Constitution," in Bernard Grofman and Donald Wittman, eds., *The Federalist Papers and the New Institutionalism* (New York: Agathon Press, 1989); Barry Weingast, "The Political Foundations of Democracy and the Rule of Law," *American Political Science Review* 91, no. 2 (1997); and Catalina Smulovitz, "How Can the Rule of Law Rule? Cost Imposition through Decentralized Mechanisms," in Jose María Moravall and Adam Przeworski, eds., *Democracy and the Rule of Law* (Cambridge: Cambridge University Press, 2003).

8. Adam Przeworksi, Susan C. Stokes, and Bernard Manin, eds., *Democracy, Accountability, and Representation* (Cambridge: Cambridge University Press, 1999).

9. Bernard Manin, Adam Przeworski, and Susan Stokes, "Elections and Representation," in Przeworski, Stokes, and Manin, *Democracy, Accountability, and Representation,* 40.

10. Schedler, "Conceptualizing Accountability," 14.

11. For a discussion of these dilemmas, see Przeworski, Stokes, and Manin, *Democracy, Accountability and Representation.*

12. Manin, Przeworski, and Stokes, "Elections and Representation." In his contribution to this book, Przeworski extends his argument to most mechanisms of accountability. In his view, "the weakness of popular control over governments is generic to democracy."

13. Adam Przeworski, *Democracy and the Market* (Cambridge: Cambridge University Press, 1991), 12.

14. Weingast, "The Political Foundations of Democracy," 91, 92.

15. Guillermo O'Donnell, "Horizontal Accountability in New Democracies," in Schedler, Diamond, and Plattner, *The Self-Restraining State;* Matthew Soberg Shugart, Erika Moreno, and Brian F. Crisp, "The Accountability Deficit in Latin America," in Scott Mainwaring and Christopher Welna, eds., *Accountability, Democratic Governance, and Political Institutions in Latin America* (Oxford: Oxford University Press, 2003).

16. Giorgio Alberti, "Democracy by Default: Economic Crisis, 'Movimientismo,' and Social Anomie," paper presented at the Fifteenth World Congress of the International Political Science Association (Buenos Aires, July 1991). Also see the following works by Guillermo O'Donnell: "Horizontal Accountability in New Democracies"; "Accountability Horizontal," *Agora: Cuaderno de Estudios Políticos,* no. 8 (1998); "Illusions about Consolidation," *Journal of Democracy* 7, no. 2 (1995); "Delegative Democracy," *Journal of Democracy* 5, no. 1 (1994); and "On the State, Democratization and Some Conceptual Problems: A Latin American View with Glances at Some Postcommunist Countries," *World Development* 21, no. 8 (1993). See also Michael Shifter, "Tensions and Trade-Offs in Latin America," *Journal of Democracy* 8, no. 2 (1997); Francisco Weffort, "What Is a New Democracy?" *International Social Science Journal,* no. 136 (1993), and *Qual Democracia?* (Sao Paulo: Compania Das Letras, 1992); Laurence Whitehead, "The Alternative to 'Liberal Democracy': A Latin American Perspective," in David Held, ed., *Prospects for Democracy* (Cambridge: Polity Press, 1993); and Fareed Zakaria, "The Rise of Illiberal Democracy," *Foreign Affairs,* no. 76 (1997). For a critical overview of the delegative argument, see Enrique Peruzzotti, "The Nature of the New Argentine Democracy: The Delegative Democracy Argument Revisited," *Journal of Latin American Studies* 33, part 1 (Feb. 2001).

17. O'Donnell, "Delegative Democracy," 166, and "Illusions about Consolidation," 185.

18. Shugart, Moreno, and Crisp, "The Accountability Deficit," 108, 117.

19. See Fox, "Civil Society and Political Accountability," and "The Difficult Transition from Clientelism to Citizenship: Lessons from Mexico," *World Politics* 46, no. 2 (Jan. 1994); O'Donnell, "On the State"; Javier Auyero, ed., *Favores por Votos? Estudios sobre el Clientelismo Político Contemporáneo* (Buenos Aires: Losada Editorial, 1997).

20. It should be noted that O'Donnell's definition of horizontal accountability does not refer to any type of monitoring or controlling exchange among state agencies but exclusively to those actions oriented to controlling or punishing actions or omissions by agents or agencies of the state that may be qualified as unlawful. In his view, horizontal mechanisms are activated either when there is an "unlawful encroachment by one state agency over the proper authority of another" or in cases involving the corruption of public officials. In this way, O'Donnell narrows the concept of horizontal accountability to that set of intrastate controls and exchanges that are oriented toward enforcing legal accountability, leaving aside horizontal political controls. We will therefore adhere to O'Donnell's spatial metaphor and distinguish the direction in which these mechanisms

operate (horizontal or vertical) from the grounds on which control is exercised (legal or political). We want to acknowledge, however, that in a recent article O'Donnell has defended the narrow use of the concept. For a debate, see Guillermo O'Donnell, "Horizontal Accountability: The Legal Institutionalization of Mistrust," in Mainwaring and Welna, *Accountability, Democratic Governance, and Political Institutions in Latin America;* and Shugart, Moreno, and Crisp, "The Accountability Deficit in Latin America."

21. O'Donnell acknowledges the emergence of vertical mechanisms that are not necessarily related to elections. He refers to the workings of social demands and an independent media. See O'Donnell, "Horizontal Accountability in New Democracies," 30. Such a recognition weakens at least one of the central assumptions of the delegative-democracy argument: that the strength of a delegative political culture in civil society feeds presidential *discrecionalismo.*

22. The literature on civil society stresses the notion that the self-constitution and self-organization of citizens in civil society and the establishment of independent media institutions represent a crucial addition to traditional representative institutions, establishing autonomous spaces that play a crucial role in influencing the process of policy making and exposing the arbitrary use of political power. A theoretical synthesis of the concept of civil society can be found in Jean Cohen and Andrew Arato, *Civil Society and Political Theory* (Cambridge: MIT Press, 1992). For an analysis of the relevance of the concept to Latin America, see Sonia Alvarez, Evelina Dagnino, and Arturo Escobar, eds., *Cultures of Politics, Politics of Culture: Re-visioning Latin American Social Movements* (Boulder: Westview Press, 1988); Leonardo Avritzer, ed., *Sociedade Civil e Democratiza-cao* (Belo Horizonte: Del Rey, 1995); Larry Diamond, "Rethinking Civil Society," *Journal of Democracy* 5, no. 3 (1994), and *Developing Democracy toward Consolidation* (Baltimore: John Hopkins University Press, 1999), chap. 6; Guillermo O'Donnell, Philippe Schmitter, and Laurence Whitehead, *Transitions from Authoritarian Rule: Tentative Conclusions* (Baltimore: John Hopkins University Press, 1986); Philip Oxhorn, *Organizing Civil Society* (University Park: Pennsylvania State University Press, 1995); and Peruzzotti, "Civil Society and the Modern Constitutional Complex," and "Towards a New Politics: Citizenship and Rights in Contemporary Argentina," *Citizenship Studies* 6, no. 1 (2002). From another angle, the literature on social capital has also stressed the contribution of civic networks and associations to good governance. See Robert Putnam, *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon and Schuster, 2000); and Bob Edwards, Michael W. Foley, and Mario Diani, eds., *Beyond Tocqueville: Civil Society and the Social Capital Debate in Comparative Perspective* (Lebanon, N.H.: University Press of New England, 2001).

23. This feature resembles the "fire alarm" mechanisms of control developed by Matthew McCubbins and Thomas Schwartz. See "Congressional Oversight Overlooked: Police Patrols versus Fire Alarms," *American Journal of Political Science* 28, no. 1 (1984): 168.

24. Since they can be addressed to *both* politicians *and* bureaucrats alike, social mechanisms can also overcome another important limitation stressed by Przeworski in his analysis of elections as mechanisms of accountability. See Adam Przeworski, "Democratization Revisited," *Item* 51, no. 1 (1997): 10–11.

25. Recent experience shows that international actors are also playing a role in the exercise of control. Not only transnational but also local NGOs and social movements have designed strategies to activate the oversight mechanisms of international agencies. See Margaret Keck and Kathryn Sikkink, *Activists beyond Borders: Advocacy Networks in*

International Politics (Ithaca: Cornell University Press, 1998); Jonathan Fox and L. David Brown, eds., *The Struggle for Accountability: The World Bank, NGOs, and Grassroots Movements* (Cambridge: MIT Press, 1998); and Diana Tussie, comp., *El BID, el Banco Mundial y la Sociedad Civil: Nuevas Formas de Financiamiento Internacional* (Buenos Aires: UBA-FLACSO, 1997).

26. This argument is developed in Peruzzotti, "Towards a New Politics," and "The Nature of the New Argentine Democracy."

27. See, e.g., Behrend's chapter in this volume.

28. See O'Donnell, "On the State."

29. For an overview of these initiatives, see Fundación Ford, *Rompiendo la Indiferencia: Acciones Ciudadanas de Interés Público* (Santiago: Fundación Ford, Oficina para la Región Andina y el Cono Sur, 2001).

30. For a general overview of different experiences of electoral observation, see Kevin J. Middlebrook, ed., *Electoral Observation and Democratic Transitions in Latin America* (San Diego: Center for U.S.-Mexican Studies, UCSD, 1998).

31. See Comision Ciudadana de Seguimiento, *Poder, Justicia e Indignidad: El Juicio al Presidente de la República Ernesto Samper Pizano* (Bogota: Utópica Ediciones, 1996).

32. See Guillermo Mastrini and César Bolaño, eds., *Globalización y Monopolios en la Comunicación en América Latina: Hacia una Economía Política de la Comunicación* (Buenos Aires: Editorial Biblos, 1999); Jesús Martín Barbero and Germán Rey, *Los Ejercicios del Ver: Hegemonía Audiovisual y Ficción Televisiva* (Barcelona: Gedisa, 1999).

33. Needless to say, the actual market structure of the media necessarily limits this watchdog role: the activities of Latin American watchdog journalists rarely expose private cases of wrongdoing that could affect an organization's commercial interests. Yet this observation should not diminish the watchdog role that the media is playing in relation to governmental wrongdoing. See Silvio Waisbord, *Watchdog Journalism in South America: News, Accountability, and Democracy* (New York: Columbia University Press, 2001).

34. Albert O. Hirschman, *Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations and States* (Cambridge: Harvard University Press, 1970).

35. Schedler, "Conceptualizing Accountability," 19–28.

36. McCubbins and Schwartz, "Congressional Oversight Overlooked."

37. If we were to use Keck and Sikkink's terminology, this phenomenon implies "framing" particular events with a wider cognitive context capable of linking and organizing specific experiences into a broader interpretative understanding. See Margaret Keck and Kathryn Sikkink, "Transnational Advocacy Networks in the Movement Society," in David Meyer and Sydney Tarrow, eds., *The Social Movement Society: Contentious Politics for a New Century* (Lanham: Rowman and Littlefield Publishers, 1998), 225.

38. Schedler has distinguished two main dimensions of the concept of accountability: answerability and enforcement. See "Conceptualizing Accountability," 14.

39. Silvio Waisbord, *Watchdog Journalism in South America,* and "Investigative Journalism and Political Accountability in South American Democracies," *Critical Studies in Mass Communication* 13 (1996); Germán Rey, *Balsas y Medusas: Visibilidad Comunicativa y Narrativas Políticas* (Bogota: Fescol-Fundación Social-Cerec, 1998); Heriberto Muraro, *Políticos, Periodistas y Ciudadanos* (Buenos Aires: Fondo de Cultura Económica, 1997).

40. John B. Thompson, "Scandals and Social Theory," in James Lull and Stephen Hineman, eds., *Media Scandals* (Cambridge: Polity Press, 1997); and *Political Scandal: Power and Visibility in the Media Age* (Cambridge: Polity Press, 2000).

41. Thompson, "Scandals and Social Theory."

42. Cases such as the "María Soledad" and "Budge" murders in Argentina, "La Cantuta" in Peru, or the constitution of the different Comissoes Parlamentares de Inquerito in Brazil illustrate the way in which "soft" types of social accountability result in the activation of horizontal mechanisms. See Catalina Smulovitz and Enrique Peruzzotti, "Societal and Horizontal Controls: Two Cases about a Fruitful Relationship," in Mainwaring and Welna, *Accountability, Democratic Governance and Political Institutions in Latin America,* 203; Flávia Schilling, *Corrupcao: Ilegalidade Intoleravel? Comissoes Parlamentares de Inquérito e a Luta contra a Corrupcao no Brasil (1980–1992)* (Sao Paulo: Instituto Brasileiro de Ciencias Criminais, 1999).

43. See Sibila Camps and Luis Pazos, *Justicia y Televisión: La Sociedad Dicta Sentencia* (Buenos Aries: Libros Perfil, 1999); Silvio Waisbord, "Investigative Journalism and Political Accountability."

44. Examples of this use of the media can be verified in cases such as the process that led to the impeachment of Collor or the legislative discussion about legal limitations of press freedom in Chile brought about by the Matus case.

45. Catalina Smulovitz, "Acciones Judiciales y Fiscalización de la Política Pública" (mimeograph); and "Ciudadanos, Derechos y Política," in Felipe González Morales, ed., *Las Acciones de Interés Público: Argentina, Chile, Colombia y Perú* (Santiago de Chile: Escuela de Derecho de la Universidad Diego Portales, 1997).

46. Frances Zemans, "Legal Mobilization: The Neglected Role of the Law in the Political System," *American Political Science Review* 77, no. 3 (1983).

47. For an analysis of the emergence of rights-oriented discourse and politics within civil society, see Isidoro Cheresky, *La Innovación Política* (Buenos Aires: EUDEBA, 1999), esp. part 2; Peruzzotti, "Towards a New Politics," and "La Democratización de la Democracia: Cultura Política, Esfera Pública y Aprendizaje Colectivo en la Argentina Postdictatorial," in Isidoro Cheresky and Inés Pousadela, eds., *Política e Instituciones en las Nuevas Democracias Latinoamericanas* (Buenos Aires: Paidós Editorial, 2001); and Smulovitz, "Ciudadanos, Derechos y Política."

48. Hirschman, *Exit, Voice, and Loyalty.*

49. Hirschman, *Exit, Voice, and Loyalty.* See also Steven Lukes, *El Poder: Una Perspectiva Radical* (Mexico: Siglo XXI Editores, 1985); and O'Donnell's contribution to this volume.

50. Examples include Ouvidorias Policiales in Sao Paulo, the Coordinadora contra la Represión Policial e Institucional, and Centro de Estudios Legales y Sociales in Argentina, Alianza Cívica in Mexico, and Transparencia in Peru.

51. Catalina Smulovitz, "The Discovery of Law: Political Consequences in the Argentine Case," in Garth Brian and Yves Dezalay, eds., *Global Prescriptions: The Production, Exportation, and Importation of a New Legal Orthodoxy* (Ann Arbor: University of Michigan Press, 2002).

52. Neal Tate and Torbjorn Vallinder, eds., *The Global Expansion of Judicial Power* (New York: New York University Press, 1995).

53. See Luiz Werneck Vianna, Maria Alice Rezende de Carvalho, Manuel Cunha Melo, and Marcelo Burgos, *A Judicializacao da Politica e das Relacoes Sociais no Brasil* (Rio de Janeiro: Editora Revan, 1999); Catalina Smulovitz, "Constitución y Poder Judicial en la Nueva Democracia Argentina: La Experiencia de las Instituciones," in Carlos Acuña, comp., *La Nueva Matriz Política Argentina* (Buenos Aires: Nueva Visión, 1995);

Jorge Correa, "Cenicienta se queda en la Fiesta: El Poder Judicial Chileno en la Década de los 90," in Paul Drake and Iván Jaksic, comps., *El Modelo Chileno: Democracia y Desarrollo en los Noventa* (Santiago: LOM Ediciones, 2000).

54. Corte Constitucional—Consejo Superior de la Judicatura, *Estadísticas sobre la Acción de Tutela* (Bogota: Imprenta Nacional de Colombia, 1999).

55. Rogerio Bastos Arantes, *Judiciario e Politica No Brasil* (Sao Paulo: Editora Sumaré, 1997). See also Calvancanti's contribution to this volume regarding the use of the Ministerio Público.

56. Werneck Vianna et al., *A Judicializacao da Politica,* 48–70.

57. Defensor del Pueblo de la Nación Argentina, Informe Anual 1999; Defensoría del Pueblo de Perú, *Resumen Ejecutivo del Segundo Informe del Defensor del Pueblo al Congreso de la República* (Lima: 2000).

58. Mary McClymont and Stephen Golub, eds., *Many Roads to Justice* (N.p.: Ford Foundation, 2000); Felipe Gonzalez and Felipe Viveros, *Ciudadanía e Interés Público* (Santiago: Cuadernos de Análisis Jurídico, Facultad de Derecho Universidad Diego Portales, 1998); Gonzalez Morales, *Las Acciones de Interes Público.*

59. The "María Soledad" case refers to the demand for justice in the case of a high school student who was found raped and murdered in the Argentine province of Catamarca. See Smulovitz and Peruzzotti, "Societal and Horizontal Controls." The "Carrasco" case involved the murder of a soldier who was fulfilling his mandatory military service. For an analysis of both cases, see the chapter by Behrend in this volume.

60. See Waisbord, "Investigative Journalism and Political Accountability," as well as his chapter in this volume.

61. See Camps and Pazos, *Justicia y Televisión.*

62. The "María Soledad" case was covered on practically a daily basis by most national newspapers. The televised event was dutifully followed by a massive audience; the trial aired across the country by approximately forty open TV and cable stations. Todo Noticias, a news-cable channel, transmitted the whole trial live without interruptions. Crónica TV, another nationwide cable channel, devoted 80 percent of its airspace, that is, an average of nineteen hours of transmission, to the trial. According to Camps and Pazos, the trial took an average of nine hours of programming. The estimated audience was between seven and ten million spectators. See Camps and Pazos, *Justicia y Televisión,* 244; *Revista Noticias*, Edición Especial 18, "Una Pasión de Multitudes," 70–72; and Aníbal Ford, "La Exasperación del Caso," in *La Marca de la Bestia: Identificación, Desigualdades e Infroentretenimiento en la Sociedad Contemporánea* (Buenos Aires: Grupo Editorial Norma, 1999), 267.

The "Cabezas case" refers to the demand for justice in the case of an Argentinean photojournalist who was savagely murdered while covering the activities of an entrepreneur suspected of money laundering.

63. Iris Marion Young, *Inclusion and Democracy* (Oxford: Oxford University Press, 2000), 174.

64. Waisbord, "Investigative Journalism and Political Accountability," 349.

65. See, e.g., Olvera's and Waisbord's contributions here, along with Smulovitz and Peruzzotti, "Societal and Horizontal Controls."

66. José María Maravall, "Accountability and Manipulation," in Przeworski, Stokes, and Manin, *Democracy, Accountability, and Representation.*