POLICE REFORM IN VIOLENT DEMOCRACIES
IN LATIN AMERICA

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I. INTRODUCTION

Violence has become an increasingly serious problem in many developing countries. According to a recent (2011) World Bank World Development Report, entitled *Conflict and Development: Overcoming Conflict and Fragility*, security is a "primary development challenge of our time."[1] In addition to traditional forms of urban violence, new threats have emerged such as organized crime and trafficking, civil unrest due to global economic shocks, and terrorism.[2] One and a half billion people live in areas affected by fragility, conflict, or organized criminal violence.

Within developing countries, Latin America faces particularly acute problems with violence: while homicide rates have been decreasing in most of the world, Latin American and Caribbean countries are the exception, possibly only accompanied by parts of sub-Saharan Africa.[3] Indeed, after experiencing a steep rise in crime rates in the 1990s, Latin America is currently one of the most violent regions in the world.[4] While data is not available for some African countries, the Latin American/Central American/Caribbean region (LAC) has the highest homicide rates per 100,000 of population per region per year. According to the UNODC 2011 World Homicide Report, eight of the ten countries with the highest reported homicide rates in the world are located in this region:[5]

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[1] The World Bank, "Conflict, Security, and Development," *World Development Report 2011* (Washington: The World Bank, 2011), 1.

[2] Ibid, 3.

[3] Ibid, 9.

[4] Rodrigo Soares and Joana Naritomi, "Understanding High Crime Rates in Latin America: The Role of Social and Policy Factors," in *The Economics of Crime: Lessons For and From Latin America*, ed. Rafael Di Tella (Chicago: University of Chicago Press, 2010); Julio Jacobo Waiselfisz, *Mapa da Violencia: Os jovens da America Latina* (Rede de Informação Tecnológica Latino-Americana (RITLA) and Ministério da Educação, 2008).

[5] United Nations Office on Drug and Crime. "UNODC Homicide Statistics," *United Nations Office on Drugs and Crime*, accessed January 17, 2012, http://www.unodc.org/unodc/en/data-and-analysis/homicide.html. See Appendix A for a complete list of homicide rates in Latin America.

1	Honduras	82.1	LAC
2	El Salvador	66	LAC
3	Cote d'Ivoire	56.9	Africa
4	Jamaica	52.1	LAC
5	Venezuela (Bolivarian Republic of)	49	LAC
6	Belize	41.7	LAC
7	Guatemala	41.4	LAC
8	US Virgin Islands	39.2	LAC
9	Saint Kitts and Nevis	38.2	LAC
10	Zambia	38	Africa

By way of comparison to homicide rates in developed countries, in 2011 the rate in the US was 5.0, Belgium 1.7, Canada, 1.8, New Zealand 1.5, the UK (England and Wales) 1.2, and Australia 1.2. [6] Even in comparison to many other developing countries, the homicide rates in Latin America are striking. For example, the homicide rate in India is 3.4, Bangladesh 2.7, South Korea 2.9, China 1.1, and Singapore 0.5. While other crime rates are also high (e.g., robbery, breaking and entering, rape, assault), massive under-reporting problems and variable data collection methods render data for these crimes much less reliable and comparable than for homicide statistics (although these are not entirely free from reliability issues). Law and order problems are consistently ranked as the leading concern of many Latin Americans in public opinion surveys.[7]

In addition to human losses and intangible injuries (such as psychological trauma), violence causes significant economic losses associated with "healthcare costs, other institutional costs, private insurance costs, and material losses."[8] As a proportion of GDP, these costs are

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[6] Ibid.

[7] Mark Ungar, "Latin America's Police: Advancing Citizen Security?", (paper presented at the Violence and Citizenship in Post-Authoritarian Latin America Conference, Princeton, New Jersey, March 7, 2008), 2.

[8] Roberto Briceño-León, Andrés Villaveces, and Alberto Concha-Eastman, "Understanding the uneven distribution of the incidence of homicide in Latin America," *International Journal of Epidemiology* 37, (2008): 755.

estimated at 3.6% for Mexico, 6.4% for Colombia, and 6.7% for Guatemala.[9] The negative effect of high homicide rates on life expectancy is also thought to reduce planning horizons and detract from optimal levels of saving and investment.[10]

These trends stand in striking contrast to the optimism engendered by the wave of democratization that has rolled through Latin America in the last three decades. In 1977, in Latin America itself, only Colombia, Costa Rica and Venezuela were democracies. Since that time, the Dominican Republic, Peru, Ecuador, Honduras, Bolivia, Argentina, El Salvador, Uruguay, Brazil, Guatemala, Chile, Paraguay, Haiti, Nicaragua, Panama, and Mexico have all moved to (at least nominally) democratic political regimes, superseding previous military or autocratic political regimes, or in some cases (such as Guatemala) as the culmination of extended civil wars.[11] The optimism engendered by this wave of democratization was in part predicated on assumptions that democratic political regimes were likely to address more effectively some of the underlying sources of inequality and grievances in countries in the region, as well as heralding the end of the deployment of violent forms of repression by military or autocratic governments.[12]

It was also assumed that police forces that had often been conscripted or enlisted in aid of the maintenance of military or autocratic governments and were often a major agent of repression, violence and human rights abuses, would, in the new democratic era, rapidly be transformed into more conventional civil police forces, charged with maintaining law and order

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[9] Ibid.

[10] Soares and Naritomi, "Understanding High Crime Rates in Latin America," 20.

[11] Michael Reid, *Forgotten Continent: The Battle for Latin America's Soul* (New Haven: Yale University Press, 2007), 120-121.

[12] Enrique Desmond Arias and Daniel Goldstein, ed. *Violent Democracies in Latin America* (Durham: Duke University Press, 2010), 2; Paulo Sergio Pinheiro, "Governo Democrático, violência e Estado (ou não) de direito", in *Brasil: fardo do passado, promessa do future*, ed. Leslie Bethell (Rio de Janeiro: Civilização Brasileira, 2002), 237-270; Paulo Sergio Pinheiro, "The Paradox of Democracy in Brazil", *The Brown Journal of World Affairs* 7, no. 2 (2002): 113-122.

and serving and protecting the legitimate security interests of citizens, while respecting their basic civil and political rights.[13] Most of these assumptions have proven unfounded in many (but not all) countries in Latin America, where police abuse and violence have in many cases actually been rising since the emergence of democratic political regimes.[14]

In this paper, we seek to explore the challenges to effective policing in what have been characterized in many cases as "violent Latin American democracies."[15] This expression captures the idea that conventional typologies of political regimes do not seem to capture the problems associated with state and interpersonal violence that characterizes many Latin American democracies today. The most extreme argument is that "if one considers violence as a measure of democratic failure – with greater levels of violence indicating a breakdown of democratic institutions and values – then Latin American democracies could be considered profoundly *un*democratic."[16] A less extreme version of this argument claims that such high levels of violence and insecurity contradict a democratic ideal of peace and these countries should therefore be described as imperfect or incomplete democracies.[17] Despite their differences, both versions of this argument share one thing in common: they assume that there is something deficient with democratic regimes with such high levels of violence and, therefore, Latin America has not yet completed its democratic transition.

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[13] Anthony Pereira and Mark Ungar, "The Persistence of Mano Dura: Authoritarian Legacies and Policing in Brazil and the Southern Cone," in *Authoritarian Legacies and Democracy in Latin America and Southern Europe*, ed. Hite and Cesarini. (Notre Dame: University of Notre Dame Press, 2004), 263.

[14] Pereira and Ungar, "The Persistence of Mano Dura: Authoritarian Legacies and Policing in Brazil and the Southern Cone,"1; Arias and Goldstein, *Violent Democracies in Latin America*, 263-266. It is important to note, however, that some of the most violent countries are the ones that are longstanding democracies (e.g., Colombia & Jamaica).

[15] Enrique Arias and Daniel Goldstein, *Violent Democracies in Latin America*.

[16] Ibid, 2.

[17] John Bailey and Roy Godson, *Organized Crime & Democratic Governability: Mexico and the U.S.-Mexican Borderlands* (Pittsburgh University Press, 2000); Otwin Marenin, "Changing police, policing change: some thematic questions," in *Changing police, policing change: International Perspectives,* ed. Otwin Marenin (New York: Garland Publishing, 1996); John Gledhill, *Power and Its Disguises: Anthropological Perspectives on Politics* (London: Pluto Press, 2000).

In addition to being important for democracy, effective policing should be an essential part of rule of law reforms. We share with other commentators[18] the view that both domestic and international proponents of rule of law reform in developing countries face an under-acknowledged challenge of rendering rule of law reform politically salient to most citizens of these countries in their daily lives. Very few citizens, over the course of their lifetimes, are likely to have any involvement in the formal court system, but many, on a daily basis, will face law and order issues where the policing function is of critical importance to them. In sum, police reform should be viewed as an essential part of the rule of law agenda in any country. Moreover, rule of law seems particularly important in democratic transitions in Latin America (and elsewhere). According to O'Donnell, "[t]he rule of law is among the essential pillars upon which any high-quality democracy rests".[19] In the absence of the rule of law, which guarantees full and equal legal protection to all, formally democratic states (i.e., those with regular elections and formal structures of democratic governance) lack many qualities that guarantee not only political, but also many other forms of social and economic engagement.[20]

The central question of this paper is what kind of reform are necessary to guarantee that Latin American police forces meet what Bayley calls "the democratic criteria": 1) police are accountable to law, not to government; 2) police protect human rights, including those related to democratic participation; 3) there are constraints on the use of police force that are enforced by

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[18] For examples of commentators who share our view, see Thomas Carothers, "The Rule of Law Revival," *Foreign Affairs* 7 (1998): 95; Stephen Golub, "A House without Foundation," in *Promoting the Rule of Law Abroad: In Search of Knowledge*, ed. Thomas Carothers (Washington, DC: Carnegie Endowment for International Peace, 2006); Bryant Garth, "Building Strong and Independent Judiciaries for the New Law and Development: Beyond the Paradox of Consensus Programs and Perpetually Disappointing Results," *DePaul Law Review* 52 (2002): 383; Michael Trebilcock and Ronald Daniels, *Rule of Law Reform and Development: Charting the Fragile Path of Progress* (Cheltenham: Edward Elgar, 2008), 355; Brian Tamanaha, *On the Rule of Law: History, Politics, Theory* (Cambridge: Cambridge University Press, 2004).

[19] Guillermo O'Donnell, "Why the Rule of Law Matters," *Journal of Democracy* 15, no. 4 (2004): 42.

[20] Teresa Caldeira and James Holston, "Democracy and Violence in Brazil," *Comparative Studies in Society and History* 41, no. 4 (1999).

institutions external to the police force; 4) the police force's priority is the protection of citizens as individuals and private groups, not the state.[21]

We acknowledge that in any discussion of police reform it is difficult to avoid broader issues relating to effective policing methods. Police reform is intrinsically linked with a concern with reducing crime rates. However, police effectiveness in fighting crime engages a much larger and more complex legal, political, social and economic matrix and its success depends in part on the nature of the interactions between reforms to the police and other elements in the matrix. The complexity of this topic and its multifaceted approach does not allow us to deal with it in this short paper. The primary focus of this paper is to discuss the types of reforms that ensure that a police force is abiding by the most fundamental principles of the rule of law under a democratic regime. We recognize that in some cases the two problems are so entangled that it is not possible to discuss police reform without addressing effective ways to reduce crime. However, as we argue in the paper, this is not always the case. In many countries it seems possible to separate the two.

The restricted focus of our analysis (reforms that ensure that a police force operates according to basic principles of the rule of law in a democratic society) does not imply that one should ignore the complex institutional interdependencies[22] between the police force and other institutions that operate in Latin American democracies. For example, democratic policing depends on an effective prosecutorial function and effective disposition of cases by the judicial system, and effective correctional institutions and policies. Yet given the significant obstacles to tackle across-the-board reforms of their entire set of legal institutions simultaneously, we believe

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[21] David H. Bayley, *Changing the Guard: Developing Democratic Police Abroad* (New York: Oxford University Press, 2006).

[22] Mariana Prado and Michael Trebilcock, "Path Dependence, Development, and the Dynamics of Institutional Reform," *University of Toronto Law Journal* 59 (2009).

that there is merit in isolating policing, a function that affects the daily lives of citizens, for more detailed analysis.

The paper will be structured as follows: Part II will present the "democratic criteria" for police forces and assess how much actual policing in Latin America deviates from these "democratic criteria". Part III will develop a hypothesis that may explain successful and failed reform experiences. Part IV will try to "test" our hypothesis by analyzing the particular case of Community Based Policing - a type of reform that has recently become very common, but not necessarily very successful, in the region. The paper concludes with some lessons that may be useful to Latin American and other middle-income developing countries.

II. THE STATE OF POLICING IN LATIN AMERICA

a. The Aspiration: Democratic Policing

The idea that the police should play a crucial role in protecting human rights and assuring equal treatment of citizens was endorsed in 1979 by the United Nations Code of Conduct for Law Enforcement and has been acknowledge in prior academic writings.[23] This ideal police force has been labeled "democratic policing" and its essential characteristic is the fact that it is accountable to law rather than to government. [24]

This essential characteristic, in turn, can be associated with (and sometimes guaranteed by) specific institutional arrangements, such as *ex ante* mechanisms for ensuring the independence of the police force from the interests of the state and its accountability to people outside of the organization. Such accountability mechanisms should create incentives for police to protect human rights, especially those rights that are required for the kinds of political activity that is the hallmark of democracy ("civil and political rights"). This accountability should also incentivize the police to give top operational priority to servicing the needs of individual citizens and private groups. These *ex ante* accountability mechanisms, in turn, should be reinforced by *ex post* accountability mechanisms that provide checks and balances on police action, sanctioning human rights violations and other violations of rules governing police behaviour. [25]

Democratic policing is especially relevant for countries in transition. In many developing countries, a politicized police force has historically acted against citizens, whether as a tool of

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[23] Trebilcock and Daniels, *Rule of Law Reform and Development*, 110; H. Goldstein, *Policing a Free Society* (Cambridge: MAL Ballinger, 1977); Peter K. Manning, "The Study of Policing," *Police Quarterly* 8, no. 1 (2005): 23.

[24] Bayley, *Changing the Guard*, 19-22.

[25] This is loosely based on the four characteristics identified by Bayley, see *Changing the Guard*, 19-22. However, differently from Bayley, we hypothesize that one of these characteristics – accountability to the law – is more relevant than the others, as it is likely to determine how the police will behave and whether outcomes such as human rights protection are likely to be effective.

the Communist Party, an authoritarian government, or a colonizing government. In these cases, the police were alienated from citizens because of their exclusive focus on securing social order and defending ruling interests.[26] In Latin America, this legacy has produced a misconception of the role of the police that "blinds them to the simple perception that the police are citizens, as are those with whom they work, and that there is no enemy."[27] In this context, democratic policing can impact positively on the transition to democracy directly or indirectly. Directly, "it would be contradictory to say that a country was democratic if its police arbitrarily arrested people, used unreasonable force, and suppressed political dissent."[28] Indirectly, police can secure the processes that are essential to democratic life, such as voting, speaking, and assembling.[29] As a consequence, democratic policing is a necessary (but not sufficient) step in the transition to a democratic regime.[30]

While democratic policing is essential for the existence of a democratic regime, the term democratic policing is not reserved for or circumscribed to democratic countries. Democratic policing is easier to achieve in a political democracy,[31] but is also a valuable model to follow even in non-democratic countries. Increasing transparency and accountability can limit the most egregious human rights violations and espouse benchmarks to which the reform process can aspire.[32] Thus, discussions of democratic policing (and reforms to implement it) do not presuppose or require a fully functional democratic regime.

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[26] Attannibi E.O. Alemika, "Police Policing and Rule of Law in Transitional Countries," in *Human Rights and the Police in Transitional Countries*, ed. Lone Lindholt et al. (The Hague: Kluwer Law International, 2003), 74.

[27] Paul Chevigny, "Defining the Role of the Police in Latin America," in *The (Un)Rule of Law and the Underpriviliged in Latin America*, ed. Juan E. Mendez et al. (Notre Dame: University of Notre Dame Press, 1999), 49.

[28] Bayley, *Changing the Guard*, 18.

[29] Ibid.

[30] Ibid.

[31] David Bayley, *Democratizing the Police Abroad: What to Do and How to Do It* (Washington: US Department of Justice, 2001), 13.

[32] Trebilcock and Daniels, *Rule of Law Reform and Development,* 110.

A potential argument against democratic policing is the popular perception in Latin America – even among police officers – that the police are more effective in ensuring public safety by violating human rights and infringing the rule of law (so called *mano dura*).[33] The counter-arguments against this perception are manifold. First, empirical evidence suggests that violating the rule of law contributes only marginally to deterrence.[34] Second, these violations are likely to make the job of the police harder, as it alienates the public and reduces citizen's willingness to cooperate with the police.[35] Third, these violations may further undermine rule of law institutions, as lawless behavior constitutes a missed opportunity for rule of law institutions to mature and develop.[36] Finally, there is no guarantee that the abuses that victimize criminals will not also be used against innocent citizens. As Paul Chevigny states, a "society cannot obtain 'security' through police lawlessness, precisely because it is lawless."[37]

b. The Reality: Non democratic Policing

Latin America is a region that defies broad generalizations, as the differences and peculiarities among its fifty[38] countries are numerous. Policing is not an exception.[39] Nevertheless, policing in Latin American countries suffers from many serious and relatively

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[33] David Bayley, "Law Enforcement and the Rule of Law: Is there a Tradeoff?", *Criminology & Public Policy* 2, no. 1 (2002): 136.

[34] David Bayley, "Law Enforcement and the Rule of Law: Is there a Tradeoff?", 138; Niels Uildriks, "Policing Insecurity and Police Reform in Mexico City," in *Policing Insecurity*, ed. Niels Uildriks (Lanham: Lexington Books, 2009).

[35] Bayley, "Law Enforcement and the Rule of Law: Is there a Tradeoff?", 138; Uildriks, "Policing Insecurity and Police Reform in Mexico City."

[36] Paul Chevigny, "Defining the Role of the Police in Latin America," 111.

[37] Ibid.

[38] By Latin America, we are referring to what the United Nations Statistical Division calls the Latin American and Caribbean region, which includes the Caribbean, Central America, and South America. For a complete list, please see United Nations Statistical Division, "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings," *United Nations Statistical Division*, last modified September 20, 2011, http://unstats.un.org/unsd/methods/m49/m49regin.htm.

[39] Jose Miguel Cruz, "Police Abuse in Latin America", *AmericasBarometer Insights* 11, (2009). Available at www.americasbarometer.org, showing that in 2008 the percentage of people who reported having suffered some for of abuse by the police in the last twelve months was above 7% in Argentina, Bolivia, Colombia and El Salvador, whereas it was around or below 3% in Venezuela, Costa Rica, Honduras, Paraguay and Panama. The number and scope of police reforms also varies significantly from country to country, as we will discuss below.

common problems. In many countries, police forces are militarized and hierarchical, reflecting

the practices of former authoritarian regimes and focusing on responsive rather than preventive

measures. [40] Corruption is endemic and often facilitates the relationship between police and

powerful drug cartels, undermining attempts at reforming the police and other complementary

institutions. [41] Police abuse and extra-judicial killings are common.[42] Finally, many police

agencies lack essential human and material resources.[43] The fact that the private security industry

is booming across the region, and that community lynchings are becoming a more widespread

phenomenon, provide further evidence that individuals feel increasingly unprotected by the

police, are disengaging from official policing institutions, and are engaging increasingly in self-

help forms of protection.[44]

With such a long list of problems, it is apparent that Latin America fails to meet the

democratic criteria.[45] With rampant corruption in many countries that goes unpunished, many

police agencies are accountable to neither government nor the law. Instead, in countries like

Peru, Mexico, Guatemala, Brazil, and Jamaica (by no means an exhaustive list) the police are

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[40] Pereira and Ungar, "The Persistence of Mano Dura", 268-269.

[41] Diane Davis,"Undermining the Rule of Law: Democratization and the Dark Side of Police Reform in Mexico," *Latin American Politics and Society* 48, no. 1 (2008): 67.

[42] Mark Ungar, "Latin America's Police: Advancing Citizen Security?"; Ruth Stanley, "Living in a Jungle: State Violence and Perceptions of Democracy in Buenos Aires," in *Violent Democracies in Latin America*, ed. Enrique Desmond Arias and Daniel M. Goldstein (Durham: Duke University Press, 2010); Anthony Pereira, "Public Security, Private Interests, and Police Reform in Brazil," in *Democratic Brazil Revisited*, ed. Peter Kingstone and Timothy Power (Pittsburgh: University of Pittsburgh Press, 2008); Daniel Brinks, "Informal Institutions and the Rule of Law: The Judicial Response to State Killings in Buenos Aires and Sao Paulo in the 1990s," *Comparative Politics* 36, no. 1 (2003): 6-7.

[43] Theodore Leggett, *Crime and Development in Central America: Caught in the Crossfire*, United Nations Office on Drugs and Crime, 2007, 31. Indicating that in countries like Honduras and Guatemala, the problem is a low ratio of police to public; Soares and Naritomi. "Understanding High Crime Rates in Latin America"; David A. Shirk and Alejandra Rios Cázares, "Introduction: Reforming the Administration of Justice in Mexico," in *Reforming the Administration of Justice in Mexico*, ed. Wayne A. Cornelius and David A. Shirk (Notre Dame: University of Notre Dame Press, 2007), 20.

[44] This can be described under the framework offered by Albert Hirschman, *Exit, Voice and Loyalty* (Cambridge: Harvard University Press, 1970). Jennifer L. Johnson, "When the Poor Police Themselves: Public Insecurity and Extralegal Criminal-Justice Administration in Mexico," *Legitimacy and Criminal Justice: International Perspectives,* ed. Tom Tyler (New York: Russell Sage Foundation, 2007.

[45] Mercedes S. Hinton, "A distant reality: democratic policing in Argentina and Brazil," *Criminal Justice* 5, no. 1 (2005): 95.

bought off by drug gangs on a regular basis.[46] This is coupled with the fact that there is a dire lack of external accountability. In the countries where there is civilian oversight over the police, regulators and ombudsmen lack effective authority to hold the agency to account. [47] Those holding these positions are frequently placed there as a result of political patronage. With few exceptions, investigations into officer misconduct are conducted internally and rarely result in serious punishment.[48]

It is noteworthy that there are some important exceptions to regional trends. While Chile's Carabineros are very hierarchical and militarized, the police force is renowned for its lack of corruption. [49] Costa Rica is another country with a functional police force with a record for respecting human rights.[50] Both these countries have relatively lower levels of police abuse than other countries in the region.[51] Despite these notable successes, however, it remains clear that there is still a widespread failure of policing to meet democratic criteria across the region.

c. The Problem: Types of Deviations from the Democratic Criteria

Policing in Latin America is so rife with problems that it requires some reframing of the democratic criteria for us to effectively assess the nature of the problem. As currently formulated, the democratic criteria presuppose a spectrum between authoritarian and democratic

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[46] George Henry Millard, "Drugs and Corruption in Latin America," *Dickinson Journal of International Law* 15 (1996):534-535; BBC News, "Humala sacks Peru police commanders in corruption purge," *BBC News*, October 11, 2011, accessed November 23, 2011, http://www.bbc.co.uk/news/world-latin-america-15250508; Leggett, "Crime and Development in Central America," 17-18; John P. Sullivan and Robert J. Bunker, "Drug Cartels, Street Gangs, and Warlords," *Small Wars & Insurgencies* 13, no. 2 (2002): 45-47; Davis, "Undermining the Rule of Law," 73.
[47] Pereira, "Public Security, Private Interests, and Police Reform in Brazil."
[48] Sandro Cabral, Sergio Lazzarini, and Allan Claudius Barbosa, "Monitorando a Polícia: Um Estudo sobre a Eficácia dos Processos Administrativos Envolvendo Policiais Civis na Corregedoria Geral da Bahia," *Organizações & Sociedade* 15 no. 47 (2008).
[49] Lucia Dammert. "Police and Judicial Reform in Chile," in *Policing Insecurity: Police Reform, Security, and Human Rights in Latin America*, ed. Niels A. Uildriks (Lanham: Lexington Books, 2009), 152.
[50] Q.A.M. Eijkman, "We are Here to Serve You! Public Security, Police Reform and Human Rights Implementation in Costa Rica" (PhD diss., Utrecht University, 2007), 2.
[51] Cruz, "Police Abuse in Latin America." Indicating that as a percentage of population reporting police abuse in the last twelve months, Costa Rica had 3.6% and Chile 4%. For a comparison, see Note 39 above.

policing. The requirement that police be accountable to law, not government, implicitly assumes that the police are accountable to one of the two. However, in many Latin Americas countries the police have become less authoritarian without becoming more democratic. In countries like Mexico, for instance, the police are accountable to drug traffickers. In other countries, like Argentina, the government is simply unable to control the police, who operate by their own rules. Consequently, an autocratic police force is only one of many different ways that police agencies can deviate from the democratic criteria.

In an attempt to facilitate the diagnosis of different problems and outline potential policy proposals to solve these problems, we will use ideal types.[52] These ideal types will indicate different types of deviation from these democratic criteria and are three fold. The first type is the **autocratic police force**, which plays a large role in the concern with police reform in countries that are transitioning from military or autocratic rule to democratic rule, as many Latin American countries were in the late 1970s and 1980s.[53] The autocratic police is controlled by and protective of the interests of a repressive regime. There are at least two other types of deviation from the democratic criteria that seem to be present in Latin America, but do not seem to be captured by the concept of autocratic police. There are countries in which the police forces seem to have moved away from the autocratic police form, but instead of becoming democratic, they have become controlled by drug gangs. We call this type the **criminal police.** Alternatively some police forces become unaccountable and uncontrollable institutions that set their own policies and execute them independently of the state. We call this type the **autarkic police**.

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[52] A similar conceptual exercise was used to discuss policing in the Post-Soviet Union, which is described as having predatory policing. See Theodore Gerber and Sarah Mendelson, "Public Experience of Police Violence and Corruption in Contemporary Russia: A Case of Predatory Policing?" *Law & Society Review* 42, no. 1 (2008).

[53] Nathan W Pino and Michael D. Wiatrowski, "Assessing the Obstacles," in *Democratic policing in transitional and developing countries*, ed. Nathan Pino and Michael D. Wiatrowski (Aldershot: Ashgate Publishing Limited, 2006), 31; Hugo Fruhling. "Recent Police Reform in Latin America" in *Policing Insecurity*, ed. Niels Uildriks (Lanham: Lexington Books, 2009), 23.

Despite exhibiting important differences, the three deviations from the democratic police outlined above (autocratic, criminal and autarkic) have one thing in common: they are all agents to a principal that is not the law. The other characteristics of the democratic police force, such as respect for human rights, protection of civil and political rights, accountability to people outside the organization, and servicing the needs of citizens are all features of a police force that is accountable to the rule of law. In other words, all the other characteristics of each ideal-type of police force are directly derived from the principal-agent relationship. For example, the criminal police violate human rights for criminal motives (i.e. to protect the interests of criminals who pay the police for protection), whereas the autarkic police violate human rights for ideological motives (they truly believe that *mano dura* is the best crime-fighting strategy). In these cases, the principals are, respectively, criminal groups and the police itself.

The table below illustrates, respectively, the principal, the additional accountability mechanism and the expected behavioural outcome in the cases of the autocratic, criminal and autarkic police forces.[54]

IDEAL TYPE	Democratic Police	Autocratic Police	Criminal Police	Autarkic Police
Principal	Law	Ruling political party	Criminal Organizations	Themselves
External accountability	Accountable to people outside their organization who are specifically designated and empowered to regulate police activity	Accountable only to people inside their organization	Accountable to people outside of their organization, but nullifying this accountability by posing threats to or bribing those in charge of controlling police	Not accountable to people outside of their organization or accountable to people who lack power and influence to effectively

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[54] This table is meant to reflect ideal types in Latin America only. A more complete table would need to include predatory policing, which has been acknowledged in the literature as an ideal type that correctly describes policing in Russia. See Note 52 above.

			activity	regulate police activity
Human Rights	Protective of human rights	Violate human rights for political motives	Violate human rights for criminal motives	Violate human rights for ideological motives
Civil and Political Rights	Especially protective of civil and political rights required for participation in a democratic system	Violate civil and political rights to suppress political activity that can be threatening to the regime	Indifferent to civil and political rights required for participation in a democratic system	Can either behave as the autocratic or as the criminal police, depending on the legacy of the authoritarian period
Mode of operation	Servicing the needs of individual citizens and legitimate private groups	Servicing the needs of the political group in control of government	Servicing the needs of private criminal groups	Servicing its own needs and ideologies.

While no force will perfectly correspond to any one ideal type, the Mexican Federal Police is a good example of the Criminal Police, as many of the police officers work for the drug cartels and protect their trafficking routes rather than enforce the law. The Jamaican Constabulary Force (JCF) shares many characteristics of an Autarkic force, since the JCF often operates by its own rules – regularly killing suspects, taking bribes, abandoning prescribed patrol routes to protect business interests – and the government is unable to control them or prevent extra-judicial killings. The Chilean Carabineros are an excellent example of a police force that is moving from Autocratic to Democratic due to reforms following the Pinochet dictatorship.[55] Since many countries have multiple levels of policing, different types of police agencies can

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[55] For a long time their operations were coordinated by the Ministry of the Interior but were formally under the Ministry of Defence. In early 2011 they were officially moved under the Minister of the Interior and Public Security (no longer the Minister of Defence). They have widespread popular support and have high levels of legitimacy, despite being still very militarized. See Hugo Fruhling, "Police Legitimacy in Chile" in *Legitimacy and Criminal Justice: International Perspectives*, ed. Tom Tyler (New York: Russell Sage Foundation, 2007), 115.

occur within one country. Despite these complexities, this typology is useful in identifying types of reforms and assessing their effectiveness, as we will discuss further below.

III.   POLICE REFORM IN LATIN AMERICA

a. Possible Reasons for Past Failures

A significant amount of financial, political and human resources has been invested in police reform in Latin America. Over the past twenty years, significant reform efforts have been made in Argentina, Mexico, Brazil, Chile, and other Latin American countries.[56] These efforts include what we call internal and external reforms. Internal reforms change the police agency itself: its personnel, organizational structure, or operations. External reforms change the environment in which the agency operates by addressing the social causes of crime and reforming complementary institutions (such as the criminal justice system) that affect the police. Why have most of these past reform efforts failed to create effective democratic policing in the region? We hypothesize that failure occurs because reforms attempt to fix the most visible policing problems without addressing the underlying institutional deficiencies that are the root cause of these problems.

The central hypothesis of this paper is that the new typology of police forces outlined above (section II.c) suggests one potential reason why efforts to implement internal reforms have been largely unsuccessful: they fail to tackle the principal-agent problem. Where the police force is criminal and under the control of powerful drug gangs (who are effectively the principals), efforts to make personnel, organizational, or operational reforms are routinely

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[56] Niels Uildriks, *Policing Insecurity* (Lanham: Lexington Books, 2009); Joseph Tulchin and Meg Ruthenburg, *Toward a Society Under Law* (Washington: Woodrow Wilson Press, 2006); John Mclean et al., "Jamaica – Community Based Policing Assessment," *Jamaican Constabulary Force and USAID*, 2008.

undermined by rampant corruption in the police force. In these cases, money for new equipment

is misappropriated, the firing of corrupt officers triggers mass protests or strikes by regular patrol

officers, and requirements of interacting with the community are seen as pointless and rejected in

favour of heavy-handed crime-fighting tactics. Ideally, better external oversight of the police

could solve these problems. But drug cartel corruption means that any attempts to establish

independent ombudsmen or civilian oversight, or to invoke the courts to prosecute corrupt police

officers (changing the principals) is met with fierce resistance from the police and the cartels,

which have strong incentives to protect their financial interests. Attempts to reform the police in

Mexico City in the 1990s suffered from these problems. [57] Police resistance to reform, however,

should not necessarily be interpreted as greed. Sabet makes the point that an upstanding police

officer is just as vulnerable to threats of physical harm from the drug cartels as a corrupt officer.

When presented with the choice of taking a bribe or receiving a credible death threat from the

cartels, even a professional, well-trained officer has a strong incentive to break the law.[58]

In autarkic police forces, the problems stem from longstanding authoritarian legacies and

a reluctance to abandon entrenched modes of operations. Attempts to implement internal

reforms fail because they are often ignored by the police agency. Once again, there is a principal-

agent problem whereby the government cannot control the police. The police can be assigned to

work with the community and establish consultative processes, but they do not take these

responsibilities seriously. Without effective external oversight, these internal reforms are likely

to fail because the police force operates under its own rules, influenced heavily by the

authoritarian models of the past. The police, frustrated by dysfunctional prosecutorial, court, and

correctional systems that they believe hamper their efforts to address the crime problem, take the

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[57] Uildriks, "Policing Insecurity and Police Reform in Mexico City."
[58] Daniel Sabet, "Police Reform in Mexico: Advances and Persistent Obstacles." In *Shared Responsibility*, ed. Eric L. Olson, Robert A. Donnelly, and David A. Shirk (Washington: Mexico Institute, 2010), 268.

law into their own hands – often with the support of many members of the public who believe in a rights/security dichotomy. Argentina is a good example. In Argentina, the Buenos Aires provincial police are autarkic, as they frequently act on their own authority and cannot be controlled by the government.[59]   In response to rising crime and corruption in 1996, the provincial government passed strong reforms including firing over 5,000 police officers, promoting Community Based Policing via Neighbourhood Security Forums, and establishing new safeguards for privacy and individual liberties.[60]   These efforts failed because the government could not control the police or incentivize compliance. The police, bolstered by support from opposition leaders in the government, strongly opposed these measures and refused to implement the reform efforts. The entire project collapsed.

Reform efforts that fail to address these underlying incentives are fundamentally flawed.[61] We argue that the most effective way of changing the underlying incentives is to deal with the principal-agent problem. In sum, the task of bringing Latin American police forces closer to the democratic criteria requires one to start by tackling the main reasons why police forces deviate from them in the first place. Obviously, the causes of this deviation vary from country to country (and in some federalist systems with multiple police forces, may vary within the same country), but reformers need to be mindful of what kind of deviation they are dealing with in order to design effective reforms.

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[59] Mark Ungar, "Police Reform in Argentina: Public Security versus Human Rights" in *Policing Insecurity*, ed. Niels Uildriks, (Lanham: Lexington Books, 2009), 180.

[60] Ibid, 180-181.

[61] Sabet, "Police Reform in Mexico," 266-269. While Sabet does not frame his argument in terms of incentives, he discusses the failure of reform efforts as the result of a failure to address political and police corruption, a dysfunctional accountability mechanisms, and the influence of the cartels. This is consistent with our principal-agent argument.

b. A Possible Solution: Dealing with the Principal-Agent problem

Our hypothesis is that police reforms in Latin America have failed because they have not dealt with the principal-agent problem. This can be reinforced by subsequent reforms, such as recruitment, training, and punishment for corruption and human rights abuses. However, internal and external reforms such as these are unlikely to be effective, if the principal-agent problem is not dealt with first. In our view, this is one of the central mistakes of many reforms in Latin America. When efforts are focused on promoting marginal changes in the police force, without addressing the principal-agent problem, more often than not reforms fail.

If the hypothesis proves to be correct, one of its normative implications will be that reformers should be dealing with the main source of the problem: the principal-agent problem. In the case of the criminal police, the new principal (law) needs to be more effective than the old principal (drug gangs). In the case of the autarkic police, the problem is that the police force has become its own principal. In this case, the challenge is how to make the police force abandon this self-controlled, self-regulated status and subject itself to the rule of law. Thus, the central challenge is establishing an effective principal.

To establish a new principal under a democratic regime, it is necessary to distinguish between *control* and *accountability* of police forces.[62] The principal is the institution that has *control* over the police force, i.e. that can dictate what a police force can and cannot do, and can effectively enforce such rules with and effective system of rewards and sanctions. Accountability, in contrast, provides information to the principal, and helps the principal to identify when the systems of reward and punishment should be used.

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[62]Philip Stenning, "The idea of the Political 'Independence' of the Police: International Interpretations and Experiences," in *Police and Government Relations: Who's Calling the Shots?*, ed. Margaret E. Beare and Tonita Murray (Toronto: University of Toronto Press, 2007).

The autocratic police force is controlled by the government, the criminal police by criminals, and the autarkic police by nobody. While the idea of control is easy to grasp in these three scenarios, it becomes less intuitive when we say that the police force is controlled by the law. In the three cases of non-democratic policing, there is a certain group (or no group at all) that maintains its interests protected by using the police force for its own benefit. But what does it mean to say that the police force is controlled by the law or is accountable to the law? We argue that this means that the police force will be controlled by a set of procedural and substantive norms that are perceived as legitimate and are accepted by the members of a certain society. This idea is articulated by Maravall and Przeworski:

> Rule of law emerges when self-interested rulers willingly restrain themselves and make their behaviour predictable in order to obtain sustained cooperation of well-organized groups commanding valuable resources. In exchange for such cooperation, rulers will protect the interests of these groups by legal means.[63]

More to the point, as Holmes states:

> Why do people with guns obey people without guns? (…) Societies may proximate the rule of law if they consist of a larger number of power-wielding groups, comprising a majority of the population, and if none of them become so strong as to be able thoroughly to dominate the other. (…) Formulated differently, the balancing of many partialities is the closest we can come to impartiality.[64]

This explanation shows how the idea of *control* and *accountability* are intrinsically connected in the case of democratic policing. The effective control of the police force by the law will be connected with accountability to people outside the organization. The more accountability, the more control there is, because all members of the community are interested in

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[63] Jose Maria Maravall and Adam Przeworski, "Introduction," in *Democracy and the Rule of Law*, ed. Jose Maria Maravall and Adam Przeworski (Cambridge University Press, 2003), 2-4.
[64] Stephen Holmes, "Lineages of the rule of law" in *Democracy and the Rule of Law*, ed. Jose Maria Maravall and Adam Przeworski (Cambridge University Press, 2003).

making sure that no other group is receiving some kind of privilege or benefit to which they are not entitled.

The link between control and accountability in democratic policing raises the question of whether the criminal and the autarkic police are not (at least partially) the product of other weak rule of law institutions. In other words, it may well be the case that the police do not have a principal because a society has not developed, in its transition from authoritarianism toward democracy, strong institutions that are capable of subjecting the police force effectively to the rule of law. Thus, a power vacuum is created, one that is filled either by drug gangs or by the police controlling themselves. If this is the case, it is clear that external reforms, involving functioning rule of law institutions, will be a pre-requisite to further reforms to the police force. This is a challenge, however, that cannot be taken lightly as rule of law reforms are complex - a significant number of them have failed and they are likely to take time.[65] In this context, it does not seem extremely helpful to suggest that Latin American countries need to revamp their rule of law institutions across the board in order to achieve democratic policing. Thus, without dismissing the importance of political stability and functioning rule of law institutions in securing democratic policing, this paper asks whether there are specific police reforms that could bring these countries closer to democratic policing.

If we consider that control and accountability are interconnected, establishing effective accountability mechanisms are likely to make police forces accountable to the law. In this regard,

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[65]Pinheiro, "Governo Democrático, violência e Estado (ou não) de direito"; Pinheiro, "The Paradox of Democracy in Brazil"; Sabet, "Police Reform in Mexico"; Sandro et al., "Monitorando a Polícia"; Michael Trebilcock and M. Prado, *What Makes Poor Countries Poor? Institutional Determinants of Development* (Cheltanham: Edward Elgar, 2011); Trebilcock and Daniels, *Rule of Law Reform and Development*; Tamanaha, *On the Rule of Law: History, Politics, Theory*; Carothers, "The Rule of Law Revival"; Erik Jensen, ed., *Beyond Common Knowledge: Empirical Approaches to the Rule of Law* (Stanford: Stanford University Press, 2003), especially Thomas Heller, Ch. 11 "An Immodest Postscript"; Bryant Garth and Yves Dezelay, "Introduction" in *Global Prescriptions: The Production, Exportation and Importation of a New Legal Orthodoxy*, ed. Bryant Garth and Yves Dezelay (Ann Arbor: University of Michigan Press, 2002).

the typology of ideal types offered in this paper allows us to distinguish different starting points and distinct challenges that countries will face. In the cases of the criminal police, for instance, there is a principal that needs to be replaced. This is not the case of autarkic police. In the case of criminal police, it is very likely that external reforms to eliminate the old principal, such as military action against drug gangs,[66] will bolster attempts at establishing a democratic police force. Otherwise, attempts to establish external accountability of the police force are likely to be undermined by the corrupting influence of the drug gangs and/or other criminal groups.[67] The problem is that eliminating the criminal principal is an exceedingly difficult process, and often has been associated with major civilian casualties, and raised a number of concerns with human rights violations.[68] Because these policies are not police reforms per ser, but general crime strategies to reduce crime, they are beyond the scope of this paper.

Despite being outside of the scope of this paper, it is important to emphasize that such crime elimination and prevention policies may impact attempts to establish successful police reforms. These policies may have positive and negative impacts. For instance, the destruction of drug cartels in one country or region may simply lead to the rise of cartels in another. For instance, the military crackdown on the Colombian drug cartels reduced crime in Colombia, but

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[66] Countries such as Brazil, Colombia, and Mexico have to dismantle criminal organizations by capturing, imprisoning and killing drug lords and criminal leaders, and by using military occupation of areas controlled by drug trafficking, see The Economist, "Shifting Sands: Mexico's changing drug war," *The Economist*, November 26, 2011, accessed February 15, 2012, http://www.economist.com/node/21540289; The Economist, "Conquering Complexo do Alemão," *The Economist*, December 2, 2010, accessed March 2, 2012, http://www.economist.com/node/17627963; The Economist "Drugs, war and democracy: A survey of Colombia," *The Economist*, April 19, 2001, accessed March 2, 2012, http://www.economist.com/node/576197.

[67] An example is from Rio de Janeiro is judge Patrícia Acioli, who was recently murdered in what was widely believed to be retaliation for her tough stance against corruption and police involvement in drug gangs, see Amnesty International, "Killing of Brazilian judge exposes police corruption," *Amnesty International*, August 16, 2011, accessed October 28, 2011, http://www.amnesty.org/en/news-and-updates/police-suspected-armed-ambush-killed-brazilian-judge-2011-08-16.

[68] The Economist, "Taking on the gangs," *The Economist*, August 27, 2011, accessed August 9, 2011, http://www.economist.com/node/21526903; Anne-Marie O'Connor and William Booth, "Torture surges in Mexico's drug war, rights group says," *The Washington Post*, November 9, 2011, accessed March 18, 2012, http://www.washingtonpost.com/world/americas/torture-surges-in-mexicos-drug-war-rights-group-says/2011/11/09/gIQAphSI6M_story.html.

contributed to increased violence in Mexico.[69] As Mexico attempts its own military crackdown on its cartels, we see drug activity and violence spreading to other Central American countries.[70] Moreover, depending on how they are conducted, such military interventions may be taken as examples of the effectiveness of *mano dura* policies, reducing popular and police support for democratic reforms in the future. Thus, these tactics create the risk that after the removal of the old principal, criminal police forces will either become authoritarian or autarkic, instead of democratic.

Short of completely eliminating the criminal principal, the question becomes, what other reforms can help establish the rule of law as the new principal. There is no formula or blueprint for which internal or external reforms can accomplish this. Different initiatives are likely to work in different contexts and in most cases it is hard to predict the outcomes of all these initiatives.   Thus, ascertaining which strategy is likely to be effective will require experimentation. It seems safe to say, however, that reforms need to revolve primarily around mechanisms of accountability. While different mechanisms will be more or less effective in different countries, and although the process of determining the best mechanisms may require a significant amount of experimentation, reformers should be focused on such mechanisms, as opposed to internal and organizational reforms.

Accountability of police forces can be established at a higher level, i.e. accountability mechanisms applicable to the entire police force of a country or a region (state or municipality); or at a lower level, i.e. accountability mechanisms applicable to specific police units, which operate in certain neighborhoods. At a higher level, there is extensive discussion in the literature

[69] Davis, "Undermining the Rule of Law."
[70] Rory Carroll, "Guatemala becomes killing field as drug wars spread through Central America," *The Guardian*, June 28, 2011, accessed March 18, 2012, http://www.guardian.co.uk/world/2011/jun/28/guatemala-town-mexico-narco-wars.

on removing military control and oversight of police forces in Latin America,[71] but this discussion is not focused on the idea that control is a means of establishing law as the principal. Instead, these analyses seem to convey the idea that this is an effective way of reducing the military culture and beginning the process of democratizing the police. In contrast, our claim is that this is at the heart of the principal-agent problem. Our typology points to the fact that the removal of such control alone is likely to create a power vacuum that will result in other forms of dysfunctional police forces (autarkic and criminal police). Thus, *replacing* military control with effective civilian control seems more important than focusing solely on the *elimination* of military influence. However, the effectiveness of such accountability depends on multiple layers of accountability that reinforce each other, which complicates any attempts to establish accountability mechanisms and establish law as the new principal at a higher level. In contrast, establishing such mechanisms at the lower level seems more feasible. This is what we turn to next.

c. Community-Based Policing and Other Reforms at the Micro-Level

The conventional wisdom on police reform, as advocated by USAID, the World Bank, and much scholarly writing, is that police forces should conduct Community Based Policing (CBP). Although the concept of CBP admits of a wide range of understandings,[72] we will focus here on attempts to make the police a proactive institution that responds to the needs of their particular communities. This includes building ties with community members through

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[71] Fruhling, "Recent Police Reform in Latin America," 35-36; Stephen Randall and Juliana Ramirez. "Policing the Police: Formal and Informal Police Oversight Mechanisms in the Americas," *Canadian Defence & Foreign Affairs Institute*, 2011.

[72] CBP encompasses a diverse collection of policies including decentralized authority, a focus on investigative work and preventative measures over reactive policies, and involving communities in the policing process. See Fruhling, Hugo, "A Realistic Look at Latin American community policing programs," *Policing and Society* 22, no. 1 (2012): 78; Diane Davis, "Community policing: Variations on the Western model in the developing world," *Police Practice and Research* 4, no. 3 (2003): 285-286.

neighborhood councils, structural changes to the police hierarchy to make it less centralized and more responsive to local conditions, and training for officers on how to build positive relationships with citizens.[73]   The expectation is that such reforms will build trust with communities, make the police be able to respond better to the needs of citizens, better protect their rights, and better respect the rule of law – thereby making them more effective at fighting and preventing crime.

Our hypothesis is that CBP can be used to establish the community as an effective oversight mechanism that will make police accountable to the law. Small-scale CBP pilot projects, focusing on a particular neighborhood, can be an important tool for countries that suffer from significant principal-agent problems at the national, state/provincial or municipal level due to criminal or autarkic police. Politically or institutionally broad reforms are complicated and likely to be strongly resisted. Establishing a principal at a lower level, instead, can be a useful approach to reform in the interim as their narrow political scope makes them low-risk projects that require less political capital and investment than comprehensive reforms. Thus, CBPs are an opportunity to create a new principal for a single police station that is not under the control of drug gangs or operating according to its own authoritarian traditions, benefiting the local community. The evidence available seems to support this hypothesis, as the active and continuous participation of the community in CBP projects is key for their success.[74] Another benefit is that CBPs are small pilot projects that minimize the negative impacts of failed attempts. The Grants Pen project, while a failure in Jamaica, is a good example of minimizing

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[73]John Mclean et al., "Jamaica – Community Based Policing Assessment," 26-29; Paulo de Mesquita Neto, "Paths toward Police and Judicial Reform in Latin America," in *Toward a Society under Law: Citizens and their Police in Latin America*, ed. Joseph S. Tulchin and Meg Ruthenburg (Washington: Woodrow Wilson Press Centre, 2006), 164.

[74]Niels Uildriks, "Mexican Police and Reform: A Theoretical Introduction," in *Mexico's Unrule of Law*, ed. Niels Uildriks (Lanham: Lexington Books, 2010), 26-27; Hugo Fruhling, "The Impact of Community Policing and Police Reform," in *Toward a Society under Law: Citizens and their Police in Latin America*, ed. Joseph S. Tulchin and Meg Ruthenburg (Washington: Woodrow Wilson Press Centre, 2006).

the fallout from experimentation. Since the efforts to implement CBP in 2002[75] were confined to one neighborhood, the lack of success did not deter the government from undertaking another CBP experiment in Flakers Bay in 2006 that proved more successful.[76]

While very promising in theory, CBP projects do not always work well in practice. CBP has been successful implemented in developed, democratic countries such as the United States,[77] but attempts to adopt these methods in Latin America have met with mixed results.[78] Our hypothesis in the Latin American context is that many CBP projects fail because they are susceptible to principal-agent problems. While CBPs in North America and Europe have self-reinforcing accountability mechanisms at the higher levels, CBPs in Latin America seek to make lower level mechanisms of accountability effective without reinforcements at the higher level. This makes the task significantly more challenging.

Given the lack of mechanisms of accountability at higher levels, one risk that CBPs face in Latin America is the risk of capture. Indeed, a common CBP reform is to increase engagement between the police and a particular neighborhood by creating a forum where police and community can interact.[79] These fora can be called neighborhood committees, community panels, or local security fronts.[80] However, there are many obstacles to these forums becoming effective mechanisms of civilian oversight. In general the communities in which people have the

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[75] Mclean et al., "Jamaica – Community Based Policing Assessment," 2.

[76] Eric Beinhart, "Jamaica Fights Gangs and Violence Island-wide," *USAID FrontLines*, 2010, 6.

[77] Fruhling, "The Impact of Community Policing and Police Reform," 46; Fruhling, "A Realistic Look at Latin American community policing programs," 78.

[78] Fruhling, "The Impact of Community Policing and Police Reform," 45-46; Davis, "Community policing: Variations on the Western model in the developing world."

[79] Ungar, "Police Reform in Argentina: Public Security versus Human Rights," 181; Markus-Michael Muller, "Community Policing in Latin America: Lessons from Mexico City," *European Review of Latin American and Caribbean Studies* 88 (2010): 26; Llorrente, María Victoria Llorrente, "Demilitarization in a War Zone," in *Public Security and Police Reform in the Americas*, ed. John Bailey and Lucía Dammert (Pittsburgh: University of Pittsburgh Press, 2006).

[80] Llorrente "Demilitarization in a War Zone"; Alberto Fohrig, Julia S. Pomares, and Cecilia Gortari. "Citizen Security Policy in Argentina: The National Crime Prevention Plan," in *Toward a Society Under Law:Citizens and Their Police in Latin America*, ed. Joseph S. Tulchin and Meg Ruthenburg (Washington: Woodrow Wilson Center Press, 2006), 246-247.

time to volunteer on committees and boards tend to be those that need CBP the least.[81] In other cases, community panels are captured or populated by a small group of people that is not representative of the interests of the entire community. This unrepresentative minority often pursues pet projects that yield little benefit in terms of social safety. Examples abound. In Mexico City, the *Policia de Barrio*, those who sat on the neighbourhood committees "tended to 'privatize the Policia de Barrio assigned to their neighbourhood and use them for private purposes."[82] In the Grants Pen neighbourhood of Kingston, Jamaica, for example, a pilot project sponsored by USAID failed because local stakeholders paid the police to change their routes and protect business interests.

In these cases, the risk of capture can be reduced by changing the governance structure of community panels and neighborhood boards to increase the plurality of groups represented in these panels or commissions. In Costa Rica, for example, a successful CBP program in the Hatillo neighborhood had a committee with representative from "the community at large, churches, sports leagues and health services."[83] Along the same lines, Fruhling suggests that a mixed commission model with representatives from governmental and non-governmental institutions is more likely to generate desirable outcomes than the neighborhood commissions.[84]

As the examples above illustrate, the central concern of those promoting CBP in Latin America should be the principal-agent problem. However, even with an effective principal, there may strong resistance inside the police force to community policing.[85] Indeed, one aspect that is

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[81]Christopher E. Stone and Heather H. Ward, "Democratic policing: A framework for action," *Policing and Society* 10, no. 1(2000).

[82] Muller, "Community Policing in Latin America: Lessons from Mexico City," 28.

[83] Randall and Ramirez, "Policing the Police: Formal and Informal Police Oversight Mechanisms in the Americas," 12.

[84] Fruhling, "The Impact of Community Policing and Police Reform."

[85] Anthony Harriott, "Police Transformation and International Cooperation – The Jamaican Experience," in *Policing Insecurity: Police Reform, Security, and Human Rights in Latin America*, ed. Niels A. Uildriks (Lanham: Lexington Books, 2009); Uildriks, "Mexican Police and Reform: A Theoretical Introduction," 29.

common to different countries is that such reforms, if externally imposed, are less likely to be effective. For instance, attempts to implement a CBP in the Argentinean province of Mendoza is a clear example of an externally imposed reform that did not attract internal support and faced strong resistance from the police officers.[86] In contrast, the most recent CBP projects in Rio illustrate a more collaborative effort. The early CBP experiments in the state of Rio de Janeiro were internally initiated reforms.[87] CBPs then expanded when an officer leading one of the most successful CBP projects in a favela (Pavão-Pavãozinho) was appointed to a high position within the force[88] and more recently managed to obtain external support from businesspeople for such initiatives.[89] Currently, this external support is helping to extend CBPs throughout the force.

The Brazilian case also illustrates how internally initiated reforms can be positively reinforced with the support of external groups. In addition to financial support, the business people supporting CBPs hired a private consulting firm to map dysfunctional processes and create a modernization plan for the State department in charge of the police force (*Secretaria de Segurança Pública*), which is a civilian body that was clearly incapable of performing effectively its oversighting functions. In addition to business people, a group of scholars contributed ideas and proposals as well, enriching the dialogue.[90] Thus, with the help of these external groups, what started as small pilot projects in certain communities is now becoming a broader institutional reform of the police force at the state level. The fact that multiple groups with divergent interests were involved in the reform process probably reduced the risk of one group

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[86] Ungar, "Police Reform in Argentina: Public Security versus Human Rights," 184-186.
[87] Graziella Moraes D. Da Silva and Ignacio Cano, "Between Damage Reduction and Community Policing: The Case of Pavão-Pavãozinho-Cantagalo in Rio de Janeiro's Favelas," in *Legitimacy and Criminal Justice*, ed.Tom Tyler (New York: Russell Sage Foundation, 2007).
[88] Ibid.
[89] Sergio Guimarães Ferreira, "Segurança Pública nas Grandes Cidades," in *Brasil: a Nova Agenda Social*, ed. E. Bacha and S. Schwartzman (Rio de Janeiro: Editora LTC, 2011), 298-299.
[90] Ibid, 301-302.

capturing the reform process to protect their own interests, as it was the case in the Grants Pen project in Jamaica.

There are different ways of involving (formally or informally) interest groups in attempts to improve police behaviour and policing outcomes. Such groups can be invited to volunteer their time, financial resources or expertise, for instance. If these groups also have formal and informal mechanisms to evaluate outcomes and demand responses to failures, their involvement is likely to generate positive change in the force, as these will serve as a series of self-reinforcing accountability mechanisms. It is important to emphasize, however, that it is necessary to prevent one single group from taking control of the police force, and capturing the reform process to protect their own private interests to the detriment of the public interest.

Albeit including a wide array of services in addition to public security, such as sanitation and public revitalization, Business Improvement Districts (BIDs) seem to be an example in which a similar structure is at work.[91] A clear example of BIDs in Latin America is the *Projeto Zonas Seguras* in Bogota, Colombia, where the involvement of business people provided financing and accountability that contributed to the success of these reforms.[92] However, BIDs in Guatemala have excluded (formally and informally) lower classes, making the benefit of enhanced security exclusive to a certain portion of the population.[93] Although this has been ascribed to the fact that such projects have relied on private security forces, it indicates one of the

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[91]Lorlene Hoyt and Devika Gopal-Agge, "The Business Improvement Model: A Balanced Review of Contemporary Debates", *Geography Compass* 1, no. 4 (2007); Jerry Mitchell, "Business Improvement Districts and the 'New' Revitalization of Downtown," *Economic Development Quarterly* 15, no. 2 (2001).

[92] Ferreira, "Segurança Pública nas Grandes Cidades," 298-299.

[93] Kevin Lewis O'Neill and Kedron Thomas, ed., *Securing the City: Neoliberalism, Space, and Insecurity in Postwar Guatemala* (Durham: Duke University Press, 2011), 84-87.

limits of excessive reliance on small, localized pilot projects and some of distributive concerns associated with them. [94]

IV. CONCLUSION

The core problem of policing in Latin America can be framed as a principal-agent problem and the challenge is to create a police force that is controlled by the rule of law. The line that marks the end of one phase of reforms (e.g. removing the old principal) and the beginning of the next (e.g. establishing accountability to the rule of law) is blurred and hard to define, especially in the case of the criminal police. Moreover, there is no blueprint that can be used as a model for all countries. In this context, the purpose of the paper is not to provide a formula. Instead, our goal is to define where our core institutional concerns should lie, acknowledging that the institutional details that will effectively address these concerns will vary from country to country, and even across different regions within the same country.

Our main argument is that our core institutional concern with police reform should focus on the creation of multiple mechanisms of accountability. Latin America's transition to democracy in the 1970s and 80s was the first step in moving away from authoritarian police regimes, where the police was simply an agent of autocratic governments. Democratizing these police agencies means removing the old principal, and establishing a new one, the law. However, in this process many Latin American countries end up with criminal and autarkic police forces (where criminal groups are the principals or there is no principal), and transforming these into democratic police forces has proven challenging. Successful and unsuccessful reform projects

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[94]Jill Simone Gross, "Business Improvement Districts in New York City's Low-Income and High Income Neighbourhoods," *Economic Development Quarterly* 19 (2005). Gross discusses how the size of the BIDs, balance of power among stakeholders, and wealth of communities impact on the outcomes.

can be associated with effective and ineffective governance mechanisms, and some successful cases may provide guidelines for future action.

As the Arab Spring continues to unfold in the Middle East, middle-income countries in this region have the potential for a similar transition to democracy. Tunisia, Egypt, and Libya – middle-income countries that have had authoritarian police agencies – have already overthrown their authoritarian political regimes.[95] Ongoing protests in Yemen, Syria, and other Middle Income countries suggest changes may also occur there.[96] The outcome of the Arab Spring revolutions is highly uncertain, but if a wave of democratization occurs in the region, then the lessons of our paper and of other countries that have gone through democratic transitions[97] should be considered when attempting to reform the authoritarian police agencies in these countries. Addressing authoritarian legacies and principal-agent problems, taking advantage of windows of opportunity, and selecting the appropriate political and institutional scope of reforms will be crucial if the Middle East is to avoid the pitfalls that have thwarted many reform efforts in Latin America.

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[95] David D. Kirkpatrick and David E. Sanger, "A Tunisian-Egyptian Link that Shook Arab History," *The New York Times*, February 13, 2011; Foreign Policy, "The Dark Corners of Qaddafi's Police State," *Foreign Policy*, September 6, 2011, accessed January 12, 2012, http://www.foreignpolicy.com/articles/2011/09/06/the_dark_corners_of_qaddafis_police_state.

[96] The World Bank, "Country and Lending Groups," *The World Bank*, accessed January 12, 2012, http://data.worldbank.org/about/country-classifications/country-and-lending-groups#Lower_middle_income.

[97] Theodore Gerber and Sarah Mendelson, "Public Experience of Police Violence and Corruption in Contemporary Russia."

Appendix A – Homicide Rates in Latin America

Country	Region	Homicide Rate (per 100,000 people per year)
Honduras	Central America	*82.1*
El Salvador	Central America	*66*
Jamaica	Caribbean	*52.1*
Venezuela (Bolivarian Republic of)	South America	*49*
Belize	Central America	*41.7*
Guatemala	Central America	*41.4*
United States Virgin Islands	Caribbean	*39.2*
Saint Kitts and Nevis	Caribbean	*38.2*
Trinidad and Tobago	Caribbean	*35.2*
Colombia	South America	*33.4*
Bahamas	Caribbean	*28*
Puerto Rico	Caribbean	*26.2*
Saint Lucia	Caribbean	*25.2*
Dominican Republic	Caribbean	*24.9*
Brazil	South America	*22.7*
Dominica	Caribbean	*22.1*
Saint Vincent and the Grenadines	Caribbean	*22*
Panama	Central America	*21.6*
Montserrat	Caribbean	*19.7*
Guyana	South America	*18.4*
Ecuador	South America	*18.2*
Mexico	Central America	*18.1*
French Guiana	South America	*14.6*
Suriname	South America	*13.7*
Nicaragua	Central America	*13.2*
Cayman Islands	Caribbean	*11.7*
Grenada	Caribbean	*11.5*
Paraguay	South America	*11.5*
Barbados	Caribbean	*11.3*
Costa Rica	Central America	*11.3*
Turks and Caicos Islands	Caribbean	*8.9*
Bolivia (Plurinational State of)	South America	*8.9*
British Virgin Islands	Caribbean	*8.6*
Guadeloupe	Caribbean	*7*
Haiti	Caribbean	*6.9*

Anguilla	Caribbean	6.8
Antigua and Barbuda	Caribbean	6.8
Uruguay	South America	6.1
Argentina	South America	5.5
Peru	South America	5.2
Cuba	Caribbean	4.6
Martinique	Caribbean	4.2
Chile	South America	3.7