On November 7th, a group of graduate students (LL.M. and J.S.D. students) shared their impressions about Lula’s landslide victory in Brazil’s presidential election runoff. This roundtable discussion was sponsored by the Schell Center.

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LULA’S BACKGROUND AND A BRIEF HISTORY OF THE WORKERS’ PARTY

Luiz Inacio Lula da Silva, elected President of Brazil on October 27th, is now 57 years old. He was born in the Northeastern region of Brazil, in the State of Pernambuco, one of the poorest areas in the country. He was the seventh son of a very poor family of small farmers. In the early fifties, following the example of millions of inhabitants of that region, Lula’s family migrated to São Paulo in search of work. After a very tough childhood, in which he could barely finish his elementary studies, Lula became a steelworker in the metropolitan area of São Paulo.

In the late sixties, Lula started his life as a labor union activist. In 1975 he was first elected president of the steelworkers’ union of São Paulo. Ironically, during the worst years of the military rule, Brazil had for the first time in its history really independent syndicates. In the years of 1978, 1979 and 1980, Lula organized big strikes and rallies gathering many thousands of factory workers. The military regarded these facts as a “communist menace” and Lula was imprisoned and convicted for “seditious activity” under the so-called National Security Act. He remained in jail only forty-one days due to the pressure of the public opinion.

At that point, Lula had already become a respected figure among the old Brazilian left-wing leaders. Lula then realized that he had credentials and popularity enough to start his career as a politician. To become a politician, however, he needed a party and he didn’t have good options.

Gustavo Binenbojm
The Workers' Party was founded in 1980 by labor union leaders, professors from academia, former members of the communist party, and leaders of the so-called “progressive Catholic church”, among many others. The party was intended to be run by the workers and not just “for the workers” as it had happened to the old populist parties dominated by the elites. The new party gathered very diverse ideological tendencies ranging from communists (Marxists, Leninists, and Trotskyites) to socialists and social-democrats.

In 1982, in the Workers' Party first election, Lula ran for the government of the State of São Paulo. He finished the race in fourth among five candidates and received very few votes. Lula was still regarded by the population as a “radical” union leader and not as a palatable politician.

In the mid-eighties, when the military rule was coming to an end, Lula and his party played a very important role in the democratization process. In 1986, Lula was elected a representative for the State of São Paulo and did a remarkable job in Congress. The Workers' Party made an outstanding contribution to the constitutional-making process of 1986-88 and played a decisive role in the definition of the social-democrat fashion of the Brazilian Constitution enacted in 1988. The country had a new Constitution and would directly elect its President for the first time since 1960.

In 1988, the Workers' Party won its first important election: the city of São Paulo – the biggest in the country - would be run by Lula's Party. Moreover, São Paulo would have a female mayor for the first time in its history.

In the Presidential election of 1989, Lula ran for President for the first time. He was defeated in the second round by Fernando Collor – a young right-wing populist supported by the elites.

Lula ran again – and failed again - in both the Presidential elections of 1994 and 1998. His contender, President Cardoso, supported by a center-right coalition, implemented an aggressive neoliberal program of privatizations and managed to bring stability to the new currency – the real. These economic reforms – encouraged by the International Monetary Fund and the World Bank – did away with subsidies, state enterprises and some traditional welfare policies, tried to free the domestic market forces and encourage foreign investments in Brazil. Although some prosperity has been achieved, little has changed in the field of income distribution and poverty.

The Workers' Party won the 2002 elections within a context of uncertainty in Brazil. Besides the persistence of social problems, the economy is growing very slowly and the national currency started a precipitous decline since the beginning of the second semester. To win the election, Lula has softened his past radicalism and promised to abide by Brazil’s financial commitments. Lula’s challenge now is how to combine the gains of economic liberalization with innovative welfare policies to bring about fairer social results.

Gustavo Binenbojm
LULA'S AGENDA FOR BRAZIL

Lula's election for the highest political office in Brazil sets a new agenda for the country, moving the political debate forward from a discourse exclusively centered in economic stability to a discourse based on positive commitments towards development and social reforms. During the electoral campaign five buzzwords dominated the political scenario: employment, growth, social inclusion, law & order, and maintenance of economic stability. These are likely to be the main issues tackled by the new Brazilian President.

First, unemployment is currently perceived as one of the most important social issues in Brazil. During Fernando Henrique Cardoso's Presidency, unemployment rates soared from 6% to 8.2%, leaving millions of people out of the job market. Lula promised to take employment as his main priority, creating 10 million jobs in four years. Second, the Brazilian economy also had a very poor record of economic growth under Cardoso's command. In fact, during the last decade, it reached one of the lowest levels of growth in its history. Lula's challenge is to put the country back in the path of economic development, creating the basis for implementation of all other points in his agenda.

Third, coming from the Workers' Party, an important part of Lula's agenda regards social inclusion. Under this broad expression, we could include traditional social policies, such as those concerned with education and health, redistributive policies, land reform and affirmative actions, among other policies. The Workers' Party has a very good record on the implementation of these policies in local and state governments, and it will probably attempt to scale these experiences to the federal level. Fourth, Brazil has watched an escalation of violence during Cardoso's second mandate. This brought the issue of law & order, usually identified as a right-wing concern, to the forefront of Lula's political discourse. Even though State governments have primary jurisdiction over most issues of law & order, we are likely to see a much more active federal government if Lula maintains his campaign promises.

Finally, we come to the fifth issue of Lula's agenda: maintenance of economic stability. And here is where things get really complicated. The specter of high inflation and economic chaos still haunts Brazil. Economic stability was an important achievement of Cardoso's administration, and during the Presidential campaign Lula made clear that he would take all necessary steps to maintain it. This will probably mean that Lula's short-term agenda will be focused on the approval of key legal reforms to balance the government's budget (e.g. tax reform and pensions reform) and to improve Brazil's credibility in the view of international financial markets (e.g. independence of the Central Bank). The success of the short-term agenda will determine much of the long-term outcomes of Lula's Presidency.

This very brief summary of the core issues in Lula's discourse is enough to give some flavor of how hard his task will be. Nevertheless, it also demonstrates that the political debate in Brazil is moving forward to a positive agenda of economic development and social reform. Cardoso made history by bringing stability to one of the most chaotic economies of the late 20th century. If Lula succeeds in the implementation of his agenda, he will make history by improving social justice in one of the most unequal societies of the early 21st century.

Caio Mario da Silva Pereira Neto
POLITICAL CONSTRAINTS TO THE ELECTED PRESIDENT

The landslide victory of the candidate of the Workers' Party in the recent Presidential elections is a sign that Brazilians want a substantial change in the social policies of the federal government. However, it is still unclear whether the Brazilian incoming administration will be able to meet the high expectations that led to its election. In fact, a number of political constraints may impair the ability of the elected President to implement an agenda of reforms that effectively changes the distribution of opportunities in Brazil.

First, the President and his supporting coalition are expected to have much less political power to implement their program than the current administration. Although the Workers’ Party has the largest number of seats in the lower house (17.7%), it is far from being the majority. Even if we add all parties of the winning coalition, representatives that support the elected administration are less than 50% of the house. In the Senate, where the Workers’ Party has 17% of the seats, the circumstances are slightly worse. There, the parties that support the incoming administration have less than 40% of all seats.

This situation contrasts sharply with the one faced by the current administration. Although Mr. Cardoso’s Social Democratic Party did not have majority of the seats in either house, the alliance with the Democratic Movement Party and the Liberal Front Party gave him majority in both and allowed the administration to successfully implement its legislative agenda of State reform, which included several amendments to the Constitution.

Second, the Presidential powers themselves have also changed. Even with its quite favorable situation in the Congress, the Cardoso administration relied heavily on the power to issue Presidential decrees with force of law. Now this power too has been circumscribed. A recent amendment to the Constitution has substantially narrowed the power of the President to issue a special type of Presidential decrees, the so-called provisory measures (medidas provisorias), largely used by the current as well as past administrations to implement significant portions of their agenda without facing difficult negotiations over congressional approval.

These constraints are obstacles for the new President, especially in the crucial first year of his term. Not surprisingly, the major concern of the elected administration now is to obtain support in the Congress and the States. To that end, it has already engaged in intense negotiations and approached several members of center and center-right parties in the hope that they will join the winning coalition. Also, it has called for a National Agreement in order to guarantee the commitment of elected governors and congressmen with part of its social agenda.

It is not unlikely that Lula will gather the political support he needs to govern. The strong popular backing he enjoys now and the fact that it will be possible to negotiate individually with representatives from opposing parties may help him overcome part of the difficulties mentioned above. What is unclear is how much of the transformative ambitions that led to his election will have to be foregone in that process.

Marcio Grandchamp
A COLOMBIAN POINT OF VIEW

As one of the discussants of the round-table, and as an ordinary Colombian citizen, I tried to advance some brief remarks about certain implications of Lula’s case on Colombia, one of Brazil’s neighboring states in Latin America. With this goal in mind, I addressed political, social and international issues.

Lula’s victory in Brazil will make it more difficult for many members of the Colombian elite to perceive the national leftist groups just as militants particularly related to the guerrillas. Before Lula’s victory it was implausible to support this perception, but after Lula’s victory it will be openly implausible to do so within the new context of this South American sub-region. This appears more evident when it is highlighted by the fact that both the political Left and the guerrillas took significant distance during the last decade in Colombia. Currently the major leftist party, called the Democratic Pole (Polo Democrático), seems not to have any kind of link with militant groups. Therefore, Lula’s victory appears as a priceless example for the Colombian Left, in the sense of definitely turning over the page of a militant Left and having a more civic-oriented alternative in the eyes of the Colombian voters.

Lula’s victory must also be interpreted as a significant lesson for the popular movements and the Colombian community in general, as far as it is a lesson of tolerance and mutual coexistence. Certainly a seriously prepared leftist party may govern a Latin American country just as a right-wing one may do it within a democratic system, and the society should be flexible and prepared enough for this type of changes and accommodations. In this sense, one of Colombian social movements’ major tasks is to fully read and discuss the success story of Lula – at least for the time being, and how he came to power in Brazil.

Finally, regarding the international dimension, I asserted that Colombia is known in the continent for two distinct tendencies: the development of the drug trade and the growth of armed challenges to the state’s authority, particularly from guerrilla and paramilitary activities. Colombia’s current crisis has become a serious security concern for its neighbors, Brazil being one of those. Indeed, clandestine flights through Brazilian airspace are a daily occurrence, and guerrillas are using territories close to the Brazilian border for the purpose of training their members and also as a shelter. Lula’s stance on this issue is yet to be seen. In any case, an increased cooperation and dialogue between Brazil and Colombia is urgently needed in order to control their mutual border.

In consequence, Lula’s victory seems to be an unprecedented phenomenon that deserves relevance and analysis not only within Brazil, but also within Colombia, the Latin American context and beyond.

Antonio Barreto

“Certainly a seriously prepared leftist party may govern a Latin American country just as a right-wing one may do it within a democratic system, and the society should be flexible and prepared enough for this type of changes and accommodations.”
Antonio Barreto
I would like to bring up two issues that Lula’s victory has raised in Mexico, at least in the media, in the past few weeks. Both issues are, at once, a hope and a question mark. The first issue answers to the question “What does Lula’s Victory mean for the Left in Latin America, particularly in Mexico?” The second question deals with the repercussions that it might entail in Latin American countries’ relations with the United States.

As to the first question, I would say that Lula’s victory is interpreted as the proof that the Left is a viable option in our growing democracies. In Mexico’s 2000 election, the right-wing party (PAN) candidate, Mr. Fox, won the election largely by convincing voters that he, not the left-wing candidate (Cuauhtémoc Cárdenas), was the only viable option to the governing party (PRI), which had ruled Mexico for more than 70 years. He managed to make the election a referendum between the centrist PRI and the conservative PAN. The left-wing party candidate (PRD) was brushed aside. Today, however, the Workers’ Party of Brazil is living proof that the Left need not be militant, need not be dispersed and weak, and need not be the perennial opposition. The Left can play in mainstream politics and win also.

As to the Left in Mexico, specifically, Lula’s victory is seen as an omen and as a new hope for our very own three time loosing, left-wing party, perennial candidate, Mr. Cárdenas. Newspaper cartoons mock Mr. Cárdenas (who has lost three presidential elections and won two state elections in the past twenty years) as he prepares his 2006 campaign. His supporters might be hopeful, but many others are fearful that this might be so. Some of us think that if Cárdenas were to run again he would not only be unsuccessful but continue to be an impediment for the renewal and coming-of-age of his party, the PRD.

As to the international aspect, there is much fear that the Bush Administration’s war rhetoric (“you are either with us or against us”) might affect U.S.-Brazil relationship. It is regrettably as much as it is absurd to talk about a new axis of evil between Cuba’s Castro, Venezuela’s Chavez and Brazil’s Lula. Not only is this oversimplifying, but it reflects ignorance of who Lula is, where he comes from and how he has gotten to where he is. The Bush Administration has neglected (understandably so, in the light of last year’s tragedy) its relations with Latin America over the past year. Argentina’s collapse was unattended. Border issues with Mexico have disappeared from the table. Let us hope that the Bush Administration will at least give Lula’s new government the benefit of the doubt of being a responsible and reasonable neighbor. Certainly many in Latin America see him not only as reasonable but as exemplary of how social causes can be channeled to work through and for democracy. Mexico will be attentively looking to see how the Bush Administration – Lula relations develop. The only thing to fear is that the rhetoric traditionally used by both Bush and Lula could bring them head to head. Let us hope that they will both outgrow their rhetoric, or at the least, that they will leave it at that: rhetoric.

Lula’s victory is not an exercise in magical realism, it is the product of a long and hard process of democratic transformation and institutional maturity of both the political system and the Left in Brazil. Hopefully it is reflecting a political evolution in the region in which the Left has an option within the mainstream, and it also is an option for the peoples of Latin America.

Alejandro Madrazo
LINKAGE PROGRAM IN BRAZIL

Patrick Price, Tania Galloni, and I spent an action-packed month in Brazil, meeting with judges and professors, visiting NGOs, and detailing the differences between U.S. and Brazilian law in Portuguese on national television. We were able to visit so much thanks to the efforts of our Brazilian hosts, who not only planned and organized our activities, but also accompanied us to most of them, often sacrificing classes, work and sleep to be with us.

We devoted most of our time in Brazil to our primary goal, learning how the Brazilian legal system worked. Former linkage participant Manuela outlined the structure of the legal system to us, describing the hierarchy, composition, and jurisdiction of the Brazilian judicial system. Since most important law in Brazil is federal, we only focused on the federal system. After we learned about the system structure, we began visiting courts at all levels of the system, from the highest federal courts to small informal labor and family tribunals, to see how they operated in practice. Since court proceedings are public, in most of the courts, we were able to meet with judges and witness court proceedings.

Several aspects of the Brazilian legal system struck us as particularly interesting and different from our system. For instance, in the lower-level courts, rather than being appointed or elected, people become judges by passing a difficult oral and written exam for which they must study for years. The idea is that the judiciary should be a meritocracy, formed by elite functionaries, rather than a political branch of government or a part of a cronyistic system. While the system falls short of being a pure meritocracy – the poor are unlikely to be able to afford the years of education required to study for the judicial exam – it in theory demands a level of political independence in the judiciary that in our system is expected of judges on the bench, but not judges trying to get there.

Another interesting aspect of the Brazilian legal system is that appellate courts are required to hear all the cases that are appealed to them. As a result, they have overwhelming caseloads which require creativity and organization to control. Arguments are, by necessity, brief. When a case is heard by a panel of judges, one judge has the responsibility of reading the case ahead of time, briefly summarizing it to the other judges at the meeting, and suggesting the court decide in a certain way. If the case seems straightforward, as many are, the other judges will vote on the case without ever having read the case file; if some doubt remains, the case is tabled until the other judges in the panel have the chance to read the case. This system allows the judges to cover several cases, while still nursing their first cup of coffee (brought to them on the bench by a tuxedoed waiter carrying a silver tray).

Some Brazilian legal scholars suggest that Brazil should adopt the concept of precedent in order to reduce the multi-year backlogs in the appellate courts by weeding out all the cut-and-dried cases that could have been finalized years ago, had litigants not decided to appeal in order to postpone paying up. But others counter that it’s impossible to adopt precedent without changing the whole structure of the Brazilian legal system, shifting from a civil-law system to a common-law-type model.
At the Movimento sem Terra we learned about the relationship between the landless poor, perhaps the most marginalized sector of the Brazilian population, and the legal system. Under the leadership of the Movimento sem Terra, groups of the landless poor occupy underproductive land, and then attempt to win the title for that land, as allowed under the Brazilian constitution. Although supported by the letter of the law, the Movimento sem Terra continuously battles brutal violence and bureaucratic intransigence in its struggles to obtain titles for the land. Since its public relations battle is at least as important to its success as its legal ones, the Movimento sem Terra devotes a substantial chunk of its funds to self-promotion. Although the camps utilize the simplest of materials, MST staff loaded us up with glossy brochures, videos, and books explaining the MST mission. Meanwhile, the MST camps get by with much fewer resources, stretching the simplest of materials as far as they can go. At the camp we visited, people cooked in stoves made out of termite nests, the pharmacy floor consisted of hard-packed dirt, and the school as well as most of the houses had been constructed from sticks and plastic sheeting. Living in the MST camp required ingenuity and invention to turn what you had into what you needed.

Throughout our stay, we relied on the guidance and help of the law students from the University of São Paulo and the associates of Levy & Salomão who planned our activities, took us into their homes, and shuttled us around. We are very grateful for all their hard work.

Sara Spalding

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NEW LINKAGE STUDENTS 2003

Grant Harris, Yuval Miller, Jasmine Elwick, Melissa Durkee, Andrew Sackett and Abja Midha have been selected to spend one month in Chile this coming year.

Gabriel Sanchez, Anna Skotko, Galit Sarfaty, Robert Schuwerk, Adam Sofen and Nicholas Lewin will be enjoying their time in Argentina.

Last but not least, Samantha Chaifetz, Eric Rosenstock and Diarra McKinney are going to (re) discover Brazil.

Congratulations to the new Linkage students and thank you to the student Coordinators of the program for their continuing help and dedication.

I wish all of you a great year 2003!

Pascale Mathieu
FREE TRADE: MEXICO AND THE U.S.

The juxtaposition of so much wealth and so much poverty has long made the relationships between the people of the United States and Mexico more complex and difficult. Free trade will intensify and change the shape of those difficulties. Free trade with wealthy nations has pervasive effects on Mexican society that are not fully captured in most discussions. Among the most troubling are the effects on communal land holdings, known as *ejidos*.

In the early twentieth century, Mexicans rose up in Revolution, inspired by calls for *Tierra y Libertad*, or Land and Liberty. After the Revolution, land was redistributed from large private land holdings on which many poor Mexicans worked, *haciendas*, back to indigenous communities, as provided for in the Constitution of 1917. In 1992, the government of Carlos Salinas de Gortari modified the Mexican Constitution to allow for privatization and alienation of communal lands, as a prelude to North American free trade. A few years later, NAFTA provided for the phasing out of tariffs on products traded between the U.S., Mexico, and Canada. The combined results of these changes are predictable and far-reaching. *Ejido* farmers cannot compete with U.S. agribusiness, which benefits from efficiencies from better technology, equipment, and economies of scale, in addition to being generously subsidized by the U.S. government and by the widespread use of cheap Mexican labor. Today, Mexicans get a majority of their corn, Mexico’s most economically and culturally important crop, from the United States. Many Mexican ejidal farms are collapsing. These results are not surprising; a primary purpose of free trade is to encourage nations to substitute their production toward goods that they produce more efficiently.

Privatizing communal lands has deep cultural significance for Mexicans, especially in the largely rural and indigenous south. The most disturbing implications of privatization and free trade concern the lingering effects of colonialism in the Americas. Private ownership and alienability of land and natural resources was important to the development of Western capitalism. However, most indigenous American groups did not recognize private ownership of land. Conflicts over land systems have been prevalent throughout the history of the post-colonial Americas. In nations where the remaining indigenous populations are small, accommodating indigenous land claims does not pose a major challenge to basic capitalist markets. In such countries, from Chile to Canada, legal systems often protect relatively small amounts of communal, non-alienable land controlled by indigenous groups. In countries with large indigenous populations, such as the majority-*mestizo* Mexico, there have been long struggles over land, as well as broader conflicts over the organization and ownership of other resources. The Mexican Revolution was fought in part to shift land and natural resources from private to public ownership, premised explicitly on indigenous ideals. Recently, armed rebel groups in Mexico, most notably the Zapatista National Liberation Army, have premised their resistance in part on opposition to NAFTA and land privatization, consciously styling themselves after the leaders of the Mexican Revolution.

Policy makers in both the United States and Mexico need to think seriously about whether the benefits of free trade in agricultural products justify the dismantling of the *ejido* system that is
central to the social and cultural fabric of southern Mexico. The economic benefits of free agricultural trade are relatively small, as agriculture makes up about 6% of Mexico’s economy and an even smaller portion of the U.S. economy. The costs to Mexico in terms of rebellions in southern Mexico, displacement of people from their homes, and militarization of Chiapas and other southern states may outweigh any gains to the Mexican economy. Economic models provide an important view of policies’ economic implications, but human beings are far more complicated than the variables used in these models. Lest we be continually surprised by social unrest, resistance to liberalization, and the cycles in Latin American policy, Latin American and U.S. policy makers must began to account for the human costs of economic and trade decisions.

Lisa Powell

“...in countries with large indigenous populations, such as the majority-mestizo Mexico, there have been long struggles over land, as well as broader conflicts over the organization and ownership of other resources.”

Lisa Powell