

Issues & Perspectives in Latin American Studies:

The Quality of Democracy & Citizenship



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The Justice System's Role in Democratic Consolidation & Economic Development

- A close fit between formal rules and behavior is necessary for a consolidated democracy and is an indicator of a strong rule of law. The rule of law is necessary for democratization, without it citizens are unable to exercise their political rights.
- Chief among development and growth's requirements is a functional system of legal proprietorship. Also critical is the right of individuals and business entities to enter into contracts that are legally enforceable.

Legal Systems in Latin America

Historical

- Community-based dispute resolution systems developed by indigenous populations of the region destroyed as highly autocratic judicial structures and closed legal proceedings imposed during conquest, discouraging the participation of civil society in judicial matters.
- The justice systems imposed represent variations of the civil code tradition with the inquisitorial system of fact finding, largely based on written procedures and an almost exclusive reliance on statutory law.
- Shift to common law as source of law with adversarial system of fact finding, accompanied by oral hearings, public trials, and recognition of rights of the victim.

Legal Systems in Latin America

Reform

- Legal standards required by free trade agreements
- Lack of protection for individual rights that reaches crisis proportions



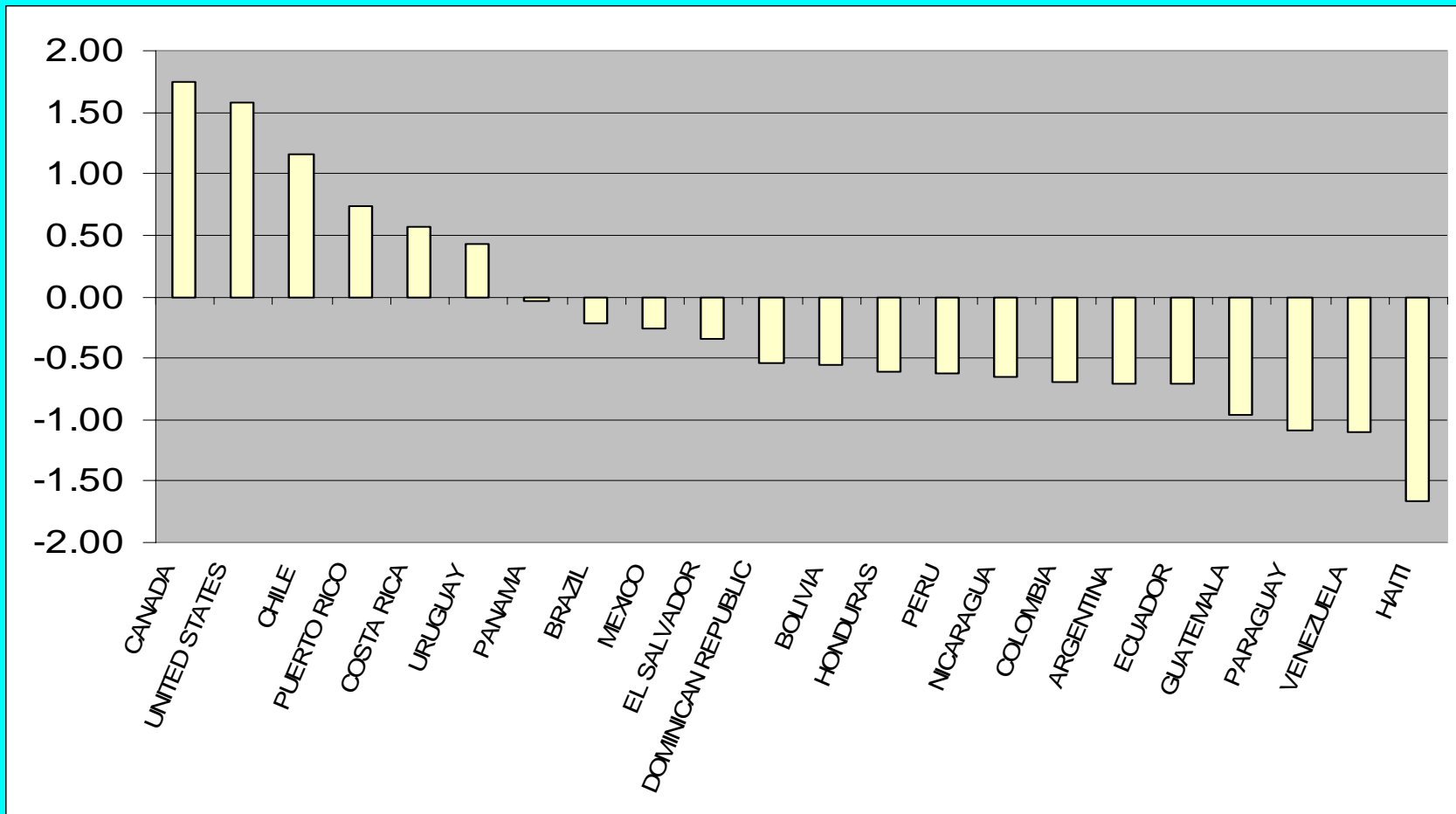
Civil Society Involvement



New *Centro de Justicia*, Chile

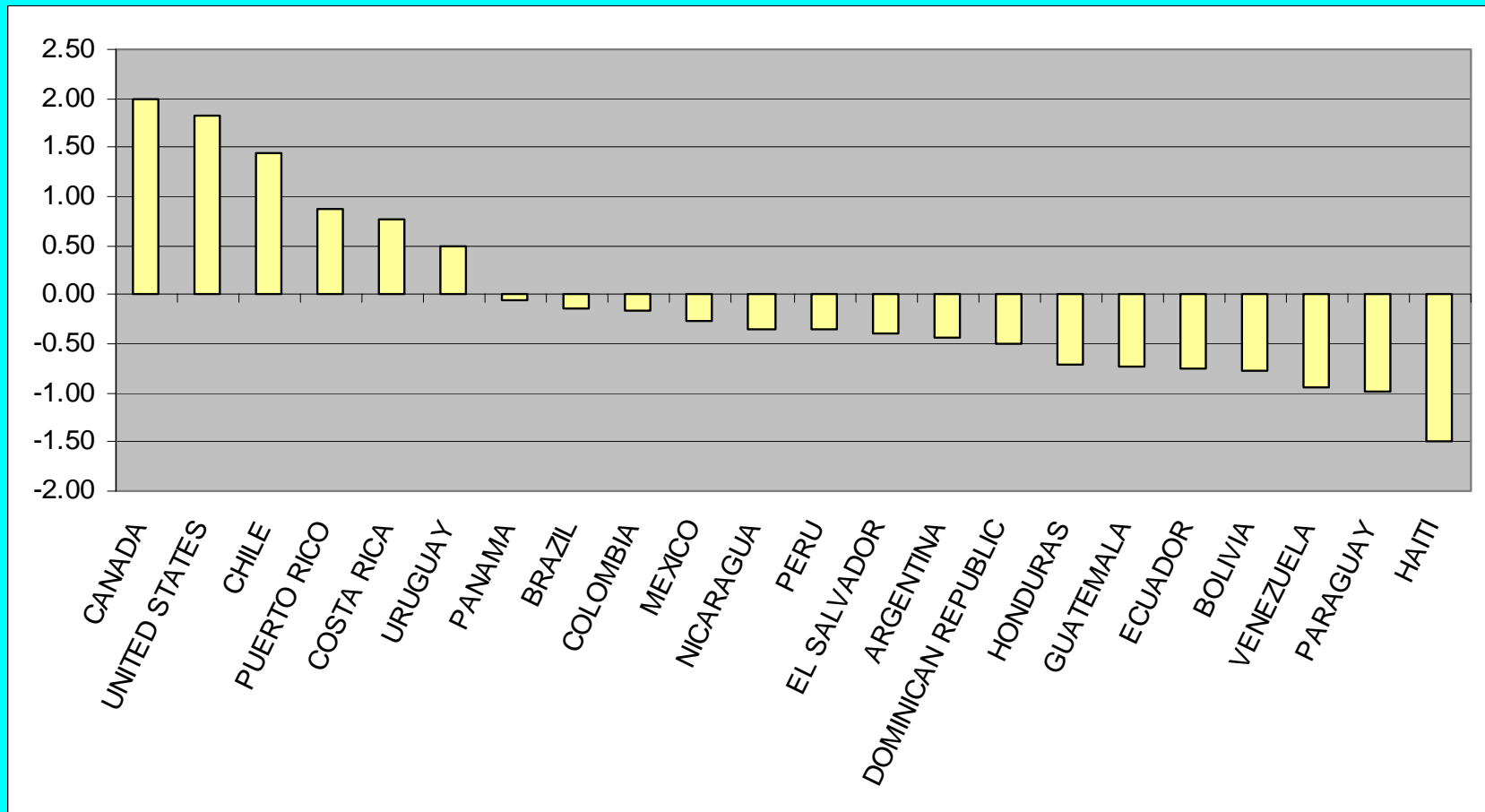


Governance Indicators: Rule of Law



World Bank, 2004.

Governance Indicators: Control of Corruption



World Bank, 2004.

LEGAL ENVIRONMENT, 2006

	Rule of Law ¹	Corruption Perception ²		Days Required to	Economic Freedom ⁴		Crime Victimization ⁵
	Percentile Rank	Index	Rank	Start a Business ³	Index	Rank	% Yes
NAFTA REGION							
Mexico	45.9	3.5 ↑	65	58	2.83	60	75.7
CENTRAL AMERICA							
Costa Rica	65.7	4.2 ↓	51	77	2.69	46	35.7
El Salvador	42.5	4.2	51	40	2.35	34	34.2
Guatemala	18.8	2.5 ↑	117	39	3.01	74	41.5
Honduras	33.8	2.6 ↑	107	62	3.28	102	34.2
Nicaragua	30.4	2.6 ↓	107	42	3.05	80	34.6
Panama	52.7	3.5 ↓	65	19	2.70	49	28.7
CARIBBEAN							
Dominican Republic	38.2	3.0 ↑	85	75	3.39	116	**
Jamaica	43.5	3.6 ↑	64	9	2.76	54	**
Trinidad & Tobago	56.0	3.8 ↓	59	**	2.50	42	**
ANDEAN SOUTH AMERICA							
Bolivia	37.2	2.5 ↑	117	50	2.96	67	33.8
Colombia	29.5	4.0 ↑	55	43	3.16	91	37.4
Ecuador	28.5	2.5 ↑	117	69	3.30	107	40.4
Peru	31.9	3.5	65	102	2.86	63	37.8
Venezuela	12.6	2.3	130	116	4.16	152	44.2
BRAZIL AND SOUTHERN CONE							
Argentina	28.5	2.8 ↑	97	32	3.30	107	47.1
Brazil	46.9	3.7 ↓	62	152	3.08	81	35.6
Chile	85.5	7.3 ↓	21	27	1.88	14	36
Paraguay	13.5	2.1 ↑	144	74	3.31	109	46
Uruguay	61.8	5.9 ↓	32	45	2.69	46	27.7

1: As measured by the World Bank's Governance Indicators: 1996-2004 <www.worldbank.org>. The percentages measure the extent to which agents have confidence in and abide by the rules of society, including perceptions of the incidence of crime, the effectiveness and predictability of the judiciary, and the enforceability of contracts.

2: As measured by Transparency International, Corruption Perceptions Index 2004 <www.transparency.org>. Focuses on corruption in the public sector and defines corruption as the abuse of public office for private gain. The country ranks measure the corruption level in 159 countries as perceived by business people, risk analysis, investigative journalists and the general public. The scores used range from 10 (country perceived as virtually corruption-free) to almost 0 (country perceived as almost totally corrupt).

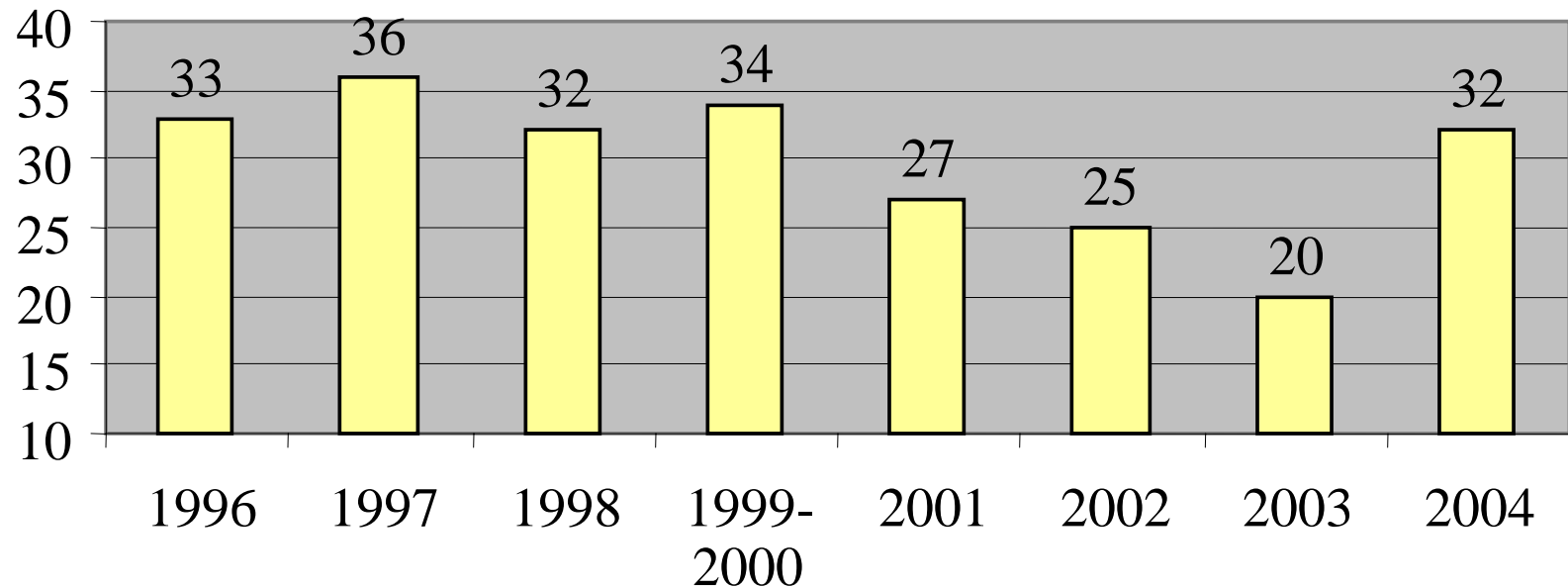
↑↓ Up or down indicate, respectively, an improvement or a worsening of the environment from 2004.

3: As measured by the World Bank Group's report "Doing Business in 2006: Removing Obstacles to Growth"

4: As measured by the Heritage Foundation's 2006 Index of Economic Freedom. Scores are based on a 1-5 scale, 1 being the best, 5 being the worst. Countries are also ranked in order of economic freedom, with 1 being the most free.

5: As measured by Latinobarometro 2002. "Have you, or someone in your family, been assaulted, attacked, or been the victim of a crime in the past 12 months?" Those who responded "Don't know" or did not provide an answer were excluded from the results.

Legal Systems in Latin America: Confidence in the Judicial Branch



Percentage of respondents who said “a lot” or
“some.”
Latinobarómetro.

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<http://www.law.ufl.edu/cgr/lpap/>