Lan American Coups: Have They Vanished or Taken New Shapes?

Prof. Rut Diamint  
*University Torcuatto de Tella (Argentina)*

Prof. Pablo Policzer  
*University of Calgary*

Dr. Michael Shifter  
*Inter-American Dialogue (DC)*

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Prof. Rut Diamint
University Torcuatto de Tella (Argentina)

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March 2011
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Applied Research Center
Florida International University
10555 W Flagler Street
Miami, FL 33174
whemsac.fiu.edu
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The views expressed in this paper are those of the author and do not necessarily reflect those of the US Government, Department of Defense, US Southern Command, or Florida International University.
EXECUTIVE SUMMARY

In the following pages, three well-known Latinoamericanists share their views on the current prospects for coups in Latin America. They are: Rut Diamint of the University Torcuatto de Tella in Buenos Aires, Argentina; Pablo Policzer of the University of Calgary in Canada; and Michael Shifter of the Inter-American Dialogue in Washington, DC. Each looks at the potential for coups from different perspectives but, all three come to similar conclusions. That is, that despite substantial gains in democracy, the threat of coups in Latin America remains latent.

The authors agree that democracy is growing in the region. Opinion surveys such as the Americas Barometer consistently show that citizens in Latin America have gradually incorporated democracy as part of their core value system. Yet, the authors argue convincingly that Latin America faces new types of interruptions to its democratic process that should be considered coups, even if not following the traditional style of military coup that predominated in the past. Situations that have taken place in Peru, Ecuador, Nicaragua, Honduras and other countries serve to illustrate the new trends.

More specifically, Professor Diamint argues that in Latin America a culture of intolerance, demonization of the opposition, and the utilization of any method to achieve power prevails. In a region with a very high threshold of violence, governments fail to set an example of establishing a culture of debate, consensus, and transparency. This culture is inclined to uncontrollable political expressions, preferring confrontational means to resolve conflict. Within this scenario, “messianic” solutions are promoted and coups cannot be discarded as an option that would never transpire.

Professor Policzer looks more closely to the constitutional loopholes that allow for a transformation of limited into
absolute power. He argues that coups can be constitutional or unconstitutional, and that a constitutional coup can occur when violations to democracy actually stem from the constitutions themselves. In Honduras, for example, specific provisions in the constitution itself created conditions for a constitutional crisis; similar provisions have also led to constitutional authoritarianism in Venezuela and other countries. Dr. Policzer stresses that when a head of state or the military take absolute power, even temporarily, based on provisions in their constitutions; they are in essence staging a constitutional coup. These blind spots in constitutions, he argues, may be a more serious threat to democracy than that of traditional coups.

Lastly, Dr. Shifter argues that some kind of coup should be expected in Latin America in coming years, not only because fundamental institutions remain weak in some countries, but because the regional political environment is less prepared to respond effectively to transgressions than it was a few years ago. The good news, however, is that only a handful of countries are at risk, and that the militaries, even in those countries, show no interest in governing. The bad news is that in those few countries where situations are indeed shaky, they are also in some cases aggravated by rising food and fuel prices, and spreading criminality, which pose serious risks to the rule of law and democratic governance.
A new era of coup d’états in Latin America?

Prof. Rut Diamint
University torcuatto de tella (argentina)

The third wave of democracy had a positive impact on Latin America. Since 1979, when Ecuador put an end to its traditional coup d’états, a domino effect occurred as various countries experienced transitions from authoritarian regimes to democracies, with Chile in 1990 closing that cycle. The June 2009, coup in Honduras ended the predominant belief that this form of political rupture had been eliminated in the region.

It is true that prior to this, several governments experienced hurdles that many feared heralded the beginnings of despotic reversals, such as in Haiti (June 1988 and September 1991); Peru (April 1992); Venezuela (led by Hugo Chavez in 1992); Guatemala (May 1993); Paraguay (April 1996) and Venezuela (2002). These events, in one hand, ascribed the instability to the inability of democracy to flourish in these countries, as happened with the abrupt end of governments in Ecuador (1997, 2000, 2005); in Argentina (2001); and in Bolivia (2003 and 2005). Yet, these events were handled within institutional frameworks that also allowed observers to reaffirm that Latin American democracies were relatively strong. This was so because the countries re-established political practices within the norms of their respective systems. Even pessimistic observers argued that the constitutional violations of the past were no longer a viable alternative. Nevertheless, they took place again in Honduras and later in Ecuador. Thus, it is worth to ask if we are witnessing the beginning of a new cycle of institutional ruptures. Several governments are promoting social and
political discord, which could lead to breakdowns and dangerous confrontations that would threaten democratic regimes. Then, are we facing a new era of *coup d’états*?

**DEFINING THE TERMS**

The French term *coup d’état* refers to a violent and illegal action used by a ruler to concentrate power and deny it from his enemies. The concept was first used in 18th century France to characterize a series of measures taken by the king outside of any legislative procedural requirements and was justified by the need to preserve the security of the state or common welfare of its citizens. In the 19th century, it still referred to actions carried out by a chief of government to increase his power or control Parliament. That is why it is also referred to as “palace coups” or “institutional coups”.

Napoleon Bonaparte’s 18 Brumaire’s coup has been considered as the beginning of the modern *coup d’état*. Although Bonaparte carried a palace coup, he gave the term new meaning when he relied on the support of the military. Curzio Malaparte, in his classic work on *coup d’états*, pointed out that for Napoleon “the art of conquering power was an essentially military art: the strategies and tactics of war applied to political struggle.”¹ From there on the *coup d’état* model changed; since the 20th century its definition evolved into rebellions led by military personnel or civilians allied with the armed forces.

The abrupt and illegal takeover by the Armed Forces and its allies has been common throughout Latin American history. As Narcis Serra reminds us, “A common characteristic of all Latin American countries is that the transition to democracy took place, without exceptions, from military regimes.”²

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¹ Curzio Malaparte (1934) *Técnica del Golpe de Estado* (Santiago, Chile, Editorial Zig-Zag), p. 95.
² Narcis Serra i Serra, “El estado: papel de las fuerzas armadas y de seguridad. Notas sobre su control democrático,” Instituto Interamericano
Yet, there is also a modern version of the *coup d’état*. It is characterized by the use of violence by authoritarian regimes against its own citizens. These regimes attempt to annul political expression, monopolize the media, impose ideologies, utilize the secret police to spy on people and use illegal means to neutralize enemies.

The prologue of Curzio Malaparte’s book on coup d’états contains a phrase that is as valid today as it was in 1931. His goal was to examine “the struggle between the defenders of the principles of freedom and democracy -in other words- the defenders of the parliamentary state and its enemies.”

Today, we could retranslate these precepts as a struggle between republican democracy and plebiscitary democracy. Now ruptures and instability are more similar to palace *coup d’états* than previous ones and also are the result of eclectic alliances with more sophisticated forms of concentration of power.

**OLD WINE IN NEW BOTTLES?**

To analyze whether we are facing new forms of institutional breakdowns or in reality, witnessing a new cycle of the old coups from the past, we will examine the case of Honduras. Whether or not a *coup d’état* took place in Honduras in 2009, generated multiple discussions. There is enough evidence that proves that it was a coup. Among them, the search-warrant ordered by the Supreme Court charging President Manuel Zelaya for abuse of authority, crimes against the government and treason against the fatherland, was never found. Also, the siege to the Brazilian Embassy was a clear violation of immunities and guarantees established by the Vienna Convention on Diplomatic Relations.

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de Derechos Humanos, s/f,

3 Curzio Malaparte, *Técnica del Golpe de Estado*, p. 5.
In documents disclosed by Wikileaks, the U.S. Ambassador in Tegucigalpa, Hugo Llorens, reported to his government that: “The position of the Embassy is that, without any doubts, the military, the Supreme Court of Justice and the National Congress conspired on June 28th in what constitutes an illegal and unconstitutional coup against the Executive power, although it could be argued that Zelaya could have acted illegally and violated the Constitution... It was a coup d’état against the Executive power. At the same time, we have no doubts that the coming to power by Roberto Micheletti was illegitimate.”

In addition, Frank La Rue, Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression from the United Nations, pointed out on his report: “Free demonstrations by those who opposed the coup d’état and demand the return of President Zelaya are not allowed, they are immediately confronted with direct repressive mechanisms by security forces.” Moreover, he added: “Cameramen and photographers who would like to document the events have been a specific target of police aggression, suffering blows, confiscation and/or destruction of their cameras or filmed footage. Several of them personally showed me the physical evidence of bruises on their bodies.” These independent expressions leave no doubts as to the authoritarian and repressive nature of the government which forcefully replaced Zelaya.

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4 “Brasil y golpe de Estado en Honduras, entre filtraciones de Wikileaks”, El Tiempo, (Bogotá, January 12, 2011); “Wikileaks filtró texto que revela que EU consideró ilegal golpe en Honduras,” Univisión.com, (New York, November 29, 2010).
6 Idem, p. 2.
Others who did not want to characterize the ousting of President Manuel Zelaya as a coup, offered superficial explanations. For example, Jorge Salaverry, former Ambassador and visiting research fellow at the Heritage Foundation, argued: “By the midterm of his presidency, Zelaya began to take a surprisingly turn to the populist left that raised red flags within his party, a traditional right wing party, and triggered concerns from Hondurans in general.” Still, Salaverry failed to point out that in a democracy, suffrage is the method to punish those who betray a party or citizens.

Nonetheless, Ambassador Salaverry is correct in adding an important point to the debate regarding current political processes in various Latin American countries. He refers to a decree issued by President Zelaya on June 25, 2009 that called for a national referendum on June 28 to ask the following question: “Do you agree with adding a fourth ballot box for the 2009 general elections which will allow the people to decide on calling for a National Constituent Assembly?” Salaverry explains the intentions behind this apparent way of exercising direct democracy. This leads into the debate between representative democracy and plebiscitary democracy.

In a plebiscitary democracy, a leader, supported by a political apparatus, seeks direct links to the people, weakening the role of institutions. In these situations, the leader-- who already became a caudillo-- is elected on a personal platform and entrusted with all power. Other actors or institutions are neglected and only the people give legitimacy to his power. But, citizens do not express

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8 Idem, p. 6.
themselves through established constitutional channels; instead, they do it through inorganic and non-institutionalized movements. These combinations of strong presidents within weak institutional contexts could be one of the main threats to liberal and pluralist democracy. In many occasions, the coup is heralded as a natural exit process to the continuous mistakes committed by a head of state. The coup participants claim to be saviors of the national identity: Messiahs claiming to embody popular will and interpret it according to their personal interests.

In contrast, a democratic state of rule of law calls for effective monopoly of violence but to not use it in an arbitrary manner, but submit it to the laws and regulations. Violence (and to take the president, wearing pajamas at night, out of the country is without any doubts an act of political violence) is an attack against existing norms. The lukewarm critique of some countries, the limited scope of action available to multilateral organizations and the subsequent oblivion of this political drama -in other words- the refusal to denounce the coup d’état and to act accordingly, is a terrible precedent for the Panamerican community. Although the assault on power that deviated from institutionalized norms was recognized, failing to act effectively had and will have a high cost when attempting to avoid similar antidemocratic adventures in the future.

**POLITICAL DETERIORATION AND LEGITIMACY**

We have witnessed other forms of political violations that represent forebodings regarding Latin American democratic systems. As Juan Linz explained in 1978, legitimacy is strengthened by the personal charisma of a leader, but what counts is the legitimacy given by laws and state institutions

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which guarantee obedience by subordinates. In de facto governments, this obedience is achieved through the armed forces monopoly on the use of force. But, what happens when legitimacy is almost exclusively achieved through a patronage system? Could we understand the attempted 2010 coup d'état in Ecuador in these terms?

The Ecuadorian police became a powerful agency, involved in many areas beyond its exclusive responsibility such as transit, customs, migration, and drug trafficking. It eventually achieved economic power similar to the Armed Forces. The police became a political actor. Its claims seemed to be linked to sinecures and benefits.

The Confederation of Indigenous Nationalities of Ecuador (CONAIE) and the Pachakutik Bloc that represents indigenous and peasant groups issued a statement rejecting the idea of a coup d'état. Given its history and broad level of representation, they deserve to be taken into account: “We energetically affirmed that there was never an attempted coup d'état, even less an abduction, but an event that responded to mistaken policies by the government which results in popular discontent, due to the permanent aggressions, discrimination and violations of human rights granted through Constitutional norms.” In another paragraph, they added: “We do not recognize ‘this dictatorial democracy,’ due to its lack of freedom of expression, the abduction of all state powers by the executive in its political system of one government, which does not generate spaces to discuss bills elaborated by indigenous movements and

12 “CONAIE; El supuesto golpe de estado, la democracia y las organizaciones indígenas,” Quito, October 6, 2010.
other social sectors.”\textsuperscript{13} The dilemma of the legitimacy of a leader or of laws and state institutions as pointed out by Linz reappears.

The international reaction in defense of democracy was quick and forceful. In a matter of hours, the Permanent Council of the Organization of American States (OAS) called for a meeting, and five presidents of UNASUR met in Buenos Aires to support the Ecuadorian democracy, although it was never confirmed whether a \textit{coup d’état} had taken place. It was evident that challenges to institutions through illegal acts, such as the closing of the international airport carried out by government officials and members of the military, received severe international sanctions.\textsuperscript{14} It was also evident that conflicts are still solved through arbitrary means, resulting in injuries and deaths.

Actions framed in this same type of resistance against governments have taken place in other countries of the region. Bolivian president, Evo Morales, also denounced an attempted \textit{coup d’état} at the United Nations General Assembly, declaring that: “I want my fellow presidents to know that last year there was also an attempted \textit{coup d’état} in Bolivia. Thanks to labor unions and the participation of the international community, especially of UNASUR, we were able to stop this civilian, not military, \textit{coup d’état} in my country. Around this time last year in September [2008], a \textit{coup d’état} failed.”\textsuperscript{15} In reality, the Bolivian president has denounced his opponents as participants in \textit{coup d’états} on various occasions. The first time was in 2003 when some governors rebelled against Morales’ orders. The situation was repeated in 2008 when he accused “fascist and terrorist paramilitary groups” of the prefectures and civic committees

\textsuperscript{13} Idem.

\textsuperscript{14} “Golpe de Estado en Ecuador?,” \textit{Reporte Confidencial, El Semanario}, October 10-17, 2010. 153.

\textsuperscript{15} Speech by Mr. Evo Morales Ayma, President of Bolivia, during the general debate at the 64\textsuperscript{th} Session of the United Nations General Assembly, September 23, 2009.
of the so called Half Moon region (Santa Cruz, Tarija, Beni and Pando) for carrying out an atypical coup d’État.\textsuperscript{16} Morales also accused the Spanish Popular Party of supporting a coup d’État against his government through a foundation (FAES) in Bolivia.\textsuperscript{17}

Argentina’s president also spoke about an attempted coup when referring to the showdown with his country’s rural sectors in 2008. President Cristina Fernández said: “I have seen again the face of a past that seems to be wanting to return…This time they have not come accompanied by tanks, this time they have been accompanied by some multimedia ‘generals’, who in addition to supporting the lockout of the people, have carried out a lockout of information by changing, twisting and showing only one side.”\textsuperscript{18} Her Minister of Economics, Amado Boudou, said that the government of President Fernández suffered two attempted coup d’états. The first one with Resolution 125 (retention of agricultural goods in 2008) and the second one with the struggle over the Central Bank reserves, during the summer of 2010, when they wanted the state to increase its debt.\textsuperscript{19}

In Nicaragua, President Daniel Ortega submitted an appeal to the Supreme Court of Justice, claiming legal inequality in order to request the annulment of a law preventing him from running for the presidency, again on the basis that the Constitution violated his rights as a citizen. After three

\textsuperscript{17} “Morales acusa en Madrid al PP de estar detrás de un golpe de Estado en Bolivia,” El Mundo, (Madrid, Spain), May 18, 2010.
judges of the opposition of the Constitutional Court left at the end of the day, the other three judges affiliated to the Sandinista party called three other Sandinista judges from other court houses to vote on Ortega’s request. In their decision, they argued that the article of the Constitution forbidding re-election was non-applicable. The tribunal “allowed him to nominate himself to the presidency in 2011.”

This institutional coup allowed the Nicaraguan president to concentrate more power and to be re-elected for a third time, reminding us of Malaparte’s description.

In these cases, more that coup attempts, the leader uses the ghost of past coups to attack the opposition. Why does this happen? Is it because there is a memory of horror of past coups or, on the contrary, does it respond to the eternal fragility of democracy? Without underestimating the corrosive instability job performed by many antagonists—who generally are the same that have the economic and multimedia power—invoking coups is a spurious political resource. These attempts to limits the political activity, demonize leaders, and promote hatred cannot lead to good democratic governability.

**POLITICAL CULTURE, VIOLENCE AND DEMOCRACY**

Democratic culture is not achieved in one game. Countries that now enjoy cohesive political systems have achieved democratic progress after huge social conflicts, intense divisions, and profound exclusions. In Latin America, the political culture inherited from so many years of authoritarianism and impregnated with fear, still exists. Order instead of freedom; discipline and hierarchy. Disciplining social relations demands a privatization of

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power. Threatening with the ghost of the coup d’état, both by those in power as well as the opposition, seeks to scare the citizens and isolate him in the face of potential chaos.

Francis Fukuyama argues that “political culture varies among different people and regions and through time; it is influenced not only by symbolic forces like religion but also by historical experiences like wars or economic crisis and is crucial to understand why some formal political institutions function and others do not.” That culture inclined to dramatic solutions, which erase the past and continuously reestablishes the “the nation’s” foundation is rooted in military institutions. The incomplete control of the armed forces opened a window of opportunity for their return as saviors of the fatherland. In addition, this failed civil supremacy also allowed for the armed forces to be re-politicized and to be used as a political party ally for new political projects. This will work until the military consider that they want to be protagonists for change. But this culture is also rooted in political leaders. Their careers are determined by territorial power. To reassert themselves, they resort to caudillo-like practices such as political vengeance or, if necessary, palace coups. There are very few Latin American nations where the principle of freedom and democracy, the Parliamentarian state, is a shared consensus, and it is respected by the political elite. Citizens emerge from societies where rule of law is respected.

We are witnessing with consternation an unceasing increase of violence that results in the beheading of citizens in Mexico, territorial control of neighborhoods in Rio de

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Janeiro, and that frustrates authorities in El Salvador and Honduras. Behind this violence, there is no poverty but inequality and a strong correlation between the rates of political and criminal violence. In Latin America, the threshold of violence is higher than in other societies on the world. Governments fail to set an example by establishing a culture of debate, consensus, and transparency. On the contrary, the culture of intolerance, demonization of the opposition and the utilization of any method to achieve power prevails. This culture is inclined to disproportionate political expressions. It accepts that the resolution of conflicts and the response to demands should be through confrontational means. Within this scenario, redeeming, messianic and mythical solutions are promoted. Among these solutions, the assault on power cannot be discarded.

Indexes of support for democracy in Latin America are not negative. Nevertheless, social and political condemnations of political adventurisms have been practically absent. Against this environment of intransigence and preponderance, we should not be surprised that *coup d’états* will continue taking place in Latin America.

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Coups in Latin America: 
Old and New Threats

Prof. Pablo Policzer 
University of Calgary (Canada)

Democracy has a stronger foothold in Latin America today than in the past, when elections were rare and power in some countries regularly changed hands through coups. Over the past generation countries in the region and international organizations such as the Organization of American States (OAS) have enshrined protections to strengthen democratic regimes. Democratic transfers of power are the norm, and democracy is entrenched as a fundamental value. Yet a number of crises in recent years have raised new fears about the strength of democratic safeguards, and even about the renewed threat of coups. In this brief I will argue that this threat requires focusing on undemocratic elements embedded in many countries’ constitutions, as well as defining coups in a novel way.

THE CONSTITUTIONAL COUP

What is a coup? In the standard view, a coup is a blow against democratic constitutional government. In a classic and oft-cited treatise, Edward Luttwak defines a coup as an illegal seizure of power.²⁴ Similarly, Maxwell Cameron argues that “a coup is, by definition, a change in the constitutional order by non-constitutional means.”²⁵ This change can include the overthrow of a democratically elected president by the military (as in Chile in 1973), as well as the

unconstitutional suspension of the constitution by a sitting executive (as in Peru in 1992).

If constitutional government is government of laws that limit power according to democratic checks and balances, it seems right to define a coup as the overthrow of constitutional government. Such an overthrow must, by definition, be unconstitutional. From this perspective, a “constitutional coup” would be an oxymoron, because constitutional government cannot constitute its own overthrow.26

The standard view is widely accepted, and is also embedded in the most significant international mechanism protecting against coups in Latin America: the Inter-American Democratic Charter stipulates that “an unconstitutional interruption of the democratic order or an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order in a member state, constitutes, while it persists, an insurmountable obstacle to its government’s participation [as a member of the OAS].” The Charter does not define an “interruption or alteration,” but the broad outlines are reasonably clear. Through the Charter, the OAS can legitimately exert pressure on states that experience not only interruptions of democracy such as military coups, but also alterations such as the arbitrary dismissal of the legislature or the judiciary by a sitting president (a “self-coup”, such as Alberto Fujimori’s in Peru in 199227).

The Charter does not clarify what is and isn’t constitutional, yet from the perspective of the standard view, we might assume this to be unproblematic. If a coup is “a change in the constitutional order by non-constitutional means”, a coup is by definition unconstitutional and hence a legitimate reason to trigger the Charter and mobilize the OAS to resist it.

26 Cameron (ibid.) argues that the constitutional coup concept “has no place in law or scholarship”.
There are two important reasons to question the standard view, however, and along with it the assumption it imposes on the Charter:

First, constitutions and constitutional orders are not the same thing. All states are a type of constitutional order, insofar as they are “constituted” in some form. Most states also have a constitution of some sort, but constitutions can differ from constitutional orders. Constitutions specify the terms under which a constitutional order functions. They are usually (though not always) written documents, which contain provisions for how authorities can exercise power in a wide range of possible circumstances. A constitutional coup is indeed an oxymoron if “constitutional” refers to the constitutional order. A constitutional order cannot overthrow itself. But if “constitutional” refers to the constitution instead of the constitutional order—then a different set of possibilities arises.

This becomes evident in the second reason to question the standard assumption, which is that most constitutions contain provisions for the suspension of basic constitutional guarantees, including core rights and freedoms. Such “states of exception” are exercised in times of emergency, such as wars, insurrections or natural disasters. Constitutions can give officials, such as presidents, extraordinary powers to suspend basic rights and freedoms, or ordinary government procedures, or both. In some constitutions states of exception are limited, and provide clear mechanisms for oversight (such as by the other branches of government). But other constitutions permit broader suspensions, with less oversight. Historically, Latin American constitutions have granted executives a great deal of power, with very limited oversight in times of crisis. And they have also granted similar kinds of power to the armed forces, especially by giving them the responsibility to act as the “guarantors” of
the constitutional order. When executives can assume absolute or near absolute power, or when the armed forces have the mandate to guarantee the constitutional order, a constitutional coup is no longer an oxymoron. A president can rule without constraints based on powers granted in the constitution, and the armed forces can overthrow a government for the purpose of protecting the constitutional order.

This is not simply a matter of purely theoretical concern, or a past problem that has little contemporary relevance. A number of contemporary issues underscore the constitutional coup threat in Latin America:

- The 2009 coup against Honduran President Manuel Zelaya by the armed forces with the support of the Congress and the Supreme Court, for the purpose of protecting the constitution. The OAS argued that the coup was clearly unconstitutional and on the basis of the Inter-American Democratic Charter suspended Honduras. A sober assessment reveals that the Honduran constitution contains provisions supporting both the OAS’s position, along with that of the group that overthrew Zelaya, which produced a constitutional crisis. Yet Honduran constitution, in granting the armed forces the power to act as guarantors of the constitutional order, contributed to the coup.  

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28 For a history of these provisions in Latin American constitutions, see Brian Loveman, *The Constitution of Tyranny* (University of Pittsburgh Press, 1993).
In December 2010 the Venezuelan Congress granted President Hugo Chávez an “enabling law”, allowing him to govern by decree for a period of 18 months. This law was one of the last acts of the outgoing Congress, controlled by pro-Chávez forces. In the incoming Congress opposition groups gained enough seats to remove Chávez’s two-third “super majority.” The enabling law was passed ostensibly to deal with the natural disasters caused by very heavy rains, but it essentially grants Chávez the power to rule without constraint from the opposition, which has gained seats in the new Congress. The OAS has declared that the enabling law contravenes the terms of the Inter-American Democratic Charter, which would mean the law is unconstitutional. Yet while the law is certainly undemocratic, it is based on particular constitutional provisions allowing Congress to grant such power to the President, which the Venezuelan Congress has done in the past. While Chávez has not taken unlimited power for an indefinite period of time, he has removed the important check and balance of Congressional oversight, and done so on the basis of the Venezuelan Constitution.

The Ecuadorian constitution also gives the President a potentially similar kind of power. In the event of a conflict between the Executive and Legislative branches, the President can end the mandate of both the Congress and the Presidency, yet continue to rule until the next scheduled elections (in which the president is allowed to run). In that interim period the president assumes full legislative faculties, meaning the ability to rule without congressional oversight. Analysts have pointed out that using this
constitutional faculty would turn the president into a virtual dictator.⁴⁰

- In 2010 a general in the Venezuelan armed forces indicated that the military would not accept an opposition victory in the next presidential elections, scheduled for 2012. Such a declaration certainly violates the Constitution’s stipulation that the military is a professional and non-political institution (Art. 328), but is consistent with the fundamental Constitutional principle that Venezuela is a Bolivarian Republic (Art. 1), which would preclude the occupation of the Presidency by a candidate from an opposition non-Bolivarian party.⁴¹

- A number of constitutions in the region have similar language regarding the status of the armed forces. Article 142 of the Brazilian Constitution states that the military is “under the supreme authority of the President of the Republic,” yet also that its mission is to “guarantee the constitutional powers.” Article 217 of the Colombian Constitution states that the mandate of the armed forces is to defend the “constitutional order”.⁴²

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⁴¹ OAS Secretary General José Miguel Insulza has warned that such threats are unacceptable and run counter to the democratic principles embodied in the Inter-American Democratic Charter. President Chávez has promoted the general in question (http://www.infolatam.com/2010/11/14/venezuela-chavez-asciende-al-general-rangel-tras-sus-amenazas-si-ganase-la-oposicion/; http://noticias.latino.msn.com/latinoamerica/articulos.aspx?cp-documentid=26528647; both accessed February 12, 2011).

⁴² The Chilean Constitution contained a similar provision (in Article 90, which stipulated that the military’s mandate was to guarantee the constitutional order), but this was removed in 2005 as part of a set of constitutional reforms.
One possible response to these threats is to suggest that the countries of the hemisphere must close ranks in defense of democracy, according to the terms of the Inter-American Democratic Charter. The premise of this position is that the mechanisms for the defense of democracy in the region are clear, and that only mustering sufficient political will to implement them is required. While the OAS has signaled its interest in improving some aspects of the Charter, it has ignored the problem of violations to democracy stemming from within the region’s own constitutions. As suggested here, these provisions create the conditions for a constitutional crisis, as in Honduras, or open the door to the exercise of constitutional authoritarianism, as in Venezuela or other countries. It makes little sense to define the problem away by ruling out ex-ante the possibility of a constitutional coup. When executives or the military take absolute power, even temporarily, based on provisions in the constitution, they are staging a constitutional coup. But how should we define a coup in order to make sense of this very real threat?

**A NEW DEFINITION FOR COUPS**

Instead of defining the problem away (by thinking of a coup as an unconstitutional alteration of the constitutional order), an alternative is to define a coup as a transformation of limited into absolute power. This transformation need not be permanent, and it need not be quick, but what distinguishes a coup is the concentration of absolute power, usually by removing democratic checks and balances. Coups can be constitutional or unconstitutional. It is always possible for an actor to take and concentrate power unconstitutionally. But if a constitution stipulates that actors such as executives or the military under some conditions can exercise absolute power, it is reasonable and not an oxymoron to call this a constitutional coup. Coups are not the same as emergency powers or states of exception, although they can be related.

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33 For example, to allow other institutions besides the Executive of the country in question to invoke the Charter.
A democratic state of exception stipulates strict limits on (usually) executive power in times of crisis. State of exception provisions that do not stipulate such limits create the conditions for a constitutional coup.

Limited and absolute power are opposite ends along a continuum, where any number of configurations may be possible. A regime can move gradually along this continuum, and slide toward the concentration of power. If that slide toward absolute power is based on constitutional provisions, the regime can experience a constitutional coup in slow motion.

Through the Inter-American Democratic Charter, the member states of the OAS have defended themselves against an “unconstitutional alteration or interruption to the democratic order.” But the Charter defines away the problem of constitutional coups: constitutional alterations or interruptions, which result in undemocratic concentrations of power. In some cases these may be a more serious threat to democracy, given the provisions for authoritarian concentration of power embedded throughout some of the region’s constitutions. Strengthening democracy will require addressing this blind spot, and reforming the undemocratic provisions in many of the region’s constitutions.
WORKS CITED


Can Coups Still Take Place in Latin America?

Dr. Michael Shifter
Inter-American Dialogue
(Washington, DC)

It has been two decades since the military forcibly ousted an elected, civilian government in Latin America and the Caribbean and actually assumed and exercised full authority. Such a traditional coup scenario took place in Haiti in 1991; prior to that, one would have to go back to Argentina in 1976. By any historical measure that is an impressive stretch of time that reflects well on the region’s democratic progress.

Yet, though surely significant, the fact that a military regime is not in control anywhere in the region today is hardly cause for celebration. Elections are, happily, routine, and have become the only acceptable way of achieving legitimacy. But the last two decades have witnessed a number of cases of governments whose legal terms were interrupted, serious aberrations in democratic rule, and significant weakening of fundamental institutions.

Indeed, there has been a string of interruptions of democratic rule in which leaders were deposed by extra-constitutional means. There is reason to believe such interruptions -- some of which certainly qualify as coups -- will continue to take place in some Latin American countries in the future.

Less than a year after Haiti’s traditional coup came the “self-coup” engineered by elected Peruvian president Alberto Fujimori, who proceeded to dissolve the Congress and suspend the constitution. And the most recent illustration
was the 2009 Honduras situation that in some respects recalled a traditional military coup, even though the armed forces did not take power but rather quickly ceded to a de facto government.

In both the Peruvian and Honduran examples (as well as Haiti) there was a strong reaction from other democratic hemispheric governments (in the case of Honduras the response was particularly severe and resulted in the country’s expulsion from the Organization of American States (OAS). But other instances in which governments that were ousted by force barely elicited any response from multilateral organizations. Street mobilizations forced Bolivian president Gonzalo Sánchez de Lozada to leave the presidency in October 2003, yet few referred to what happened as a coup.

Ecuador most clearly exemplifies the view that whether or not a challenge to democratic rule is dealt with as a coup is less a result of some rigorous, consistently applied definition than the politics that surrounds the situation. Arguably in several instances in Ecuador -- including in 1997, 2000 and particularly in 2005 – democratically elected governments were forced out, and at least in two of those cases the armed forces played the role of final arbiter.

Yet, prevailing regional politics -- along with the nature and politics of the coup itself -- were not conducive to any serious response by other hemispheric governments. At the same time, in late September 2010 there was essentially a police uprising that generated a strong response (even if one was not really warranted) and was characterized as a coup, not only by the OAS but also the Community of South American Nations or UNASUR. In some cases a coup took place but was not described as such, whereas another case was deemed a coup though it is not clear one occurred.

Whether a legitimate, elected government is forcibly ousted by Congress (Ecuador 1997), the street (Bolivia 2003) or the
military (Honduras 2009), such coups or interruptions are highly problematic and repeatedly reveal the extreme fragility of democratic institutions in a half dozen or so of Latin American countries. Electoral processes may have improved in many respects, but in some nations the rule of law and judicial systems remain deficient, and Congress and political parties are extremely weak and incoherent. In these countries, which tend to have chronic governance difficulties, there are good reasons to expect future coups, particularly if economic and social conditions deteriorate.

In addition, there is another kind of phenomenon that can aptly be described as a coup as well – and that does not necessarily involve any change in government. Some analysts have referred to “slow-motion” coups in such countries as Nicaragua and Venezuela, where elected presidents proceed to systematically concentrate power and display disdain for democratic institutions and independent powers of government. In some respects, these cases resemble the characteristics of Fujimori in Peru in the 1990s. Nicaragua’s Daniel Ortega, elected president in 2006, has dismantled any checks on his power and presided over local elections widely deemed to be fraudulent.

In Venezuela, Hugo Chavez represents an extreme case, in which democratic norms and practices have been progressively subverted. The latest example is a set of laws, passed by a lame duck, Chavez-controlled National Assembly that gives Chavez decree authority for some eighteen months. Though the April 2002 short-lived coup against Chavez produced a strong reaction by the hemispheric community, the significant violations of his own 1999 constitution have met with a tepid response at best outside of Venezuela. Chavez’s regime, markedly militarized and contemptuous of the rule of law, faces scant external pressure.

Unless the politics are aligned (as was the case in Honduras in June 2009), there otherwise seems to be less and less
appetite among regional bodies such as the OAS to take forceful action in response to coups of whatever kind. In September 2011, the Inter-American Democratic Charter, which codified all of the OAS instruments and declarations regarding the defense of democracy in the Americas, will mark its first decade. The instruments and framework are highly developed, and were fashioned in response to the Fujimori experience (beyond the 1992 “self-coup”) in Peru, where the Charter was signed by the hemisphere’s democratically elected governments.

But unfortunately in recent years the collective will in the Americas to apply the instruments in accordance with some consistent standards and criteria has eroded. Among the region’s countries that have experienced democratic progress such as Chile and Brazil there is no support for the situations of strongman rule in such countries as Nicaragua and Venezuela. At the same time, however, arguments about sovereignty and non-intervention are frequently invoked to justify inaction.

Coups of some kind should be expected in Latin America in coming years not only because fundamental institutions remain weak in some countries but because the regional political environment is less prepared to respond effectively to transgressions than it was a few years ago. The good news, however, is that only a handful of countries are at risk, and that the militaries, even in those countries, show no interest in governing. The bad news is that in those few countries where situations are indeed shaky, they are also in some cases aggravated by rising food and fuel prices, and spreading criminality, which pose serious risks to the rule of law and democratic governance.
ABOUT THE AUTHORS

**Rut Diamint** is a Professor of Political Science, Universidad Torcuato Di Tella in Buenos Aires, Argentina and advisor to the Provisional Presidency of the Argentine Senate. She is co-director of the “Political Leadership, Democratic Practices and Political Renovation in Latin America” project, supported by the Open Society Foundation. Prof. Diamint had specialized in civil-military relations, defense issues and peace and democracy. Her latest book, *Democracia y Seguridad en América Latina*, was published in 2002. She also co-edited, *El Rompecabezas. Conformando la Seguridad Hemisférica en el Siglo XX*, with Joseph S. Tulchin and Raúl Benítez Manaut (2006). She served as consultant for the Fundación Arias para la Paz y el Progreso Humano (Costa Rica), PROCIVIL, the Inter-American Development Bank, IADB, the Ford Foundation, and the Washington Office on Latin America. Prof. is a member of the Advisory Committee of the Club de Madrid. She has been awarded scholarships from the Fulbright Foundation, the Woodrow Wilson International Center for Scholars, PIF Program of the Canadian government, Tinker Foundation, UN Commission for Peace Studies and the US Studies Center for US-Mexican Studies at the University of California in San Diego. Prof. Diamint graduated from the University of Buenos Aires (Sociology, 1985), received in 1990 a Master Degree in Social Science from Latin American Faculty of Social Sciences (FLACSO) and she is a PhD candidate at the Universidad Autonoma de Barcelona, Spain.

**Pablo Policzer** holds a Canada Research Chair in Latin American Politics at the University of Calgary and is the Director of the Armed Groups Project, a research network dedicated to analyzing armed groups and their compliance with humanitarian and human rights norms. He is also a fellow at the U of C’s Latin American Research Centre, and the Centre for Military and Strategic Studies. Prof. Policzer’s research aims to understand how to regulate coercive organizations—including militaries, police forces, and non-state armed groups. He obtained his PhD in political science from the Massachusetts Institute of Technology, and his BA (Honours, First Class) in political science from the University of British Columbia. The Canadian Political Science Association awarded Professor Policzer’s *The Rise and
Fall of Repression in Chile the CPSA Prize in Comparative Politics 2010.

**Michael Shifter** is president of the Inter-American Dialogue, a Washington-based policy forum on Western Hemisphere affairs. Shifter previously served as the organization’s vice president for policy, and managed the Dialogue’s programs on the Andean region and democratic governance. Since 1993 he has been adjunct professor of Latin American politics at Georgetown University’s School of Foreign Service. Before joining the Dialogue, Shifter directed the Latin American and Caribbean program at the National Endowment for Democracy and the Ford Foundation’s governance and human rights program in the Andean region and the Southern Cone, where he was based in Lima, Peru and then Santiago, Chile. Prior to that, he served as a representative at the Inter-American Foundation for the Brazil program. Shifter writes and comments widely on US-Latin American relations and hemispheric affairs and has frequently testified before the US Congress. He is co-editor, along with Jorge Domínguez, of *Constructing Democratic Governance in Latin America* (Johns Hopkins University Press). He is contributing editor to *Current History* and a member of the Council on Foreign Relations. Shifter graduated *summa cum laude* from Oberlin College and received a Masters degree in sociology from Harvard University.
PHASE II


Erich de la Fuente, “Cuba’s Role in Venezuela’s Control of the Internet and Online Social Networks.” October 2010.


**PHASE I**


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