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# CHALLENGES to DEMOCRACY in the ANDES

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Strongmen,  
Broken Constitutions,  
and Regimes in Crisis

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edited by  
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Grace M. Jaramillo



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# Preface

This book explores challenges to democracy in Venezuela, Bolivia, Ecuador, Peru, and Colombia through the lens of regime crises caused by elected leaders (especially strongmen or *caudillos*), many of whom seek to alter or undermine constitutional constraints on their power. We focus, in particular, on the political dynamics of executive aggrandizement, of which the self-coup is perhaps the most extreme example. A self-coup occurs when a president closes Congress, suspends the constitution, and rules by decree. When successful, such measures may be retrospectively legitimated by a referendum on new constitutional arrangements that expand executive power. To a US audience, the self-coup might have seemed like an obscure or exotic problem before January 6, 2021. The storming of the US Capitol looked to all intents and purposes like the early stages of such a regime crisis. Fortunately, that did not happen. But it did happen in Latin America—specifically, Peru in 1992. This led to a major debate about whether democracy could be destroyed from within by democratically elected leaders. The debate intensified when Venezuela’s Hugo Chávez marginalized Congress and had his nation’s constitution rewritten by means of a constituent assembly. The dynamic this unleashed, like Fujimori’s self-coup, ultimately contributed to the breakdown of democracy. Similar efforts to rewrite constitutions occurred in Ecuador and Bolivia, and this book explores their political legacies.

At a conceptual level, the issues raised by self-coups, overweening executives, and the use of constituent assemblies are familiar to observers of Latin American politics. For years we have written about delegative forms of rule, encroachment by one branch of power on another, and problems of horizontal accountability and the rule of law. Much of our work in this book is inspired by and extends the well-known contributions of Guillermo O’Donnell. Our book opens new avenues of inquiry into the functioning of contemporary democratic regimes. The theoretical groundwork is set out in

the introduction and theory chapters, which pick up where Maxwell A. Cameron's 2018 article in *Latin American Politics and Society* left off, titled "Making Sense of Competitive Authoritarianism." The chapters in this volume offer subtle but significant shifts in the way that we think about political regimes. Rather than using liberal democracy as our normative baseline, we follow O'Donnell by treating democracy, liberalism, and republicanism as three distinctive intellectual traditions that often reinforce one other but are also sometimes in tension. We also distinguish three dimensions of democracy: electoral components, concomitant conditions, and constitutional guarantees. This allows us to disaggregate the components of political regimes, thereby capturing greater diversity in types of democracy as well as variation in the quality of democracy.

The book is a successor to previous work conducted under the aegis of the Andean Democracy Research Network at the University of British Columbia (UBC), which was created in 2007 with the goal of assessing the state of democracy in the Andes. That initiative—which was funded by the Glyn Berry Fund and the Social Sciences and Humanities Research Council of Canada (SSHRC)—resulted in an edited book, titled *Democracia en la Región Andina*; a project titled *New Institutions for Participatory Democracy in Latin America*, funded by the Ford Foundation and the International Development Research Centre in Ottawa; and a book titled *Latin America's Left Turns*. At the time, the Andean subregion of South America was seen as both the site of some of the most precarious democracies and some of the most interesting experiments in participatory governance in Latin America. In the book we use our earlier findings as a baseline and assess advances and backsliding in the subsequent decade.

Our work has been generously supported by the SSHRC (grant number 435-2018-0393), as well as a Research Excellence Cluster grant from the Office of the Vice-President, Research and Innovation at UBC. Work regarding this project began in Costa Rica in May 2017. We are grateful for the feedback we received from participants in two workshops, including Jorge Vargas Cullell, George Gray Molina, Gabriela Ippolito-O'Donnell, Enrique Peruzotti, Eric Hershberg, Jon Beasley-Murray, Brian Wampler, Manuel Alcántara, Felipe Alpízar, Francoise Montambeault, and Evelyn Villarreal. Drafts of all the chapters were presented at the Latin American Studies Association meeting in Boston in 2019. Several research assistants made important contributions, including Verónica Hurtado and Paolo Sosa-Villagarcía, both contributing authors, as well as Gabriela Ruíz and Zarái Toledo. Rebecca Monnerat provided indispensable project management.

—Maxwell A. Cameron

—Grace M. Jaramillo

# 1

## The Dilemmas of Democratization in the Andes

Maxwell A. Cameron and  
Grace M. Jaramillo

**“DISOLVER!”** PROCLAIMED ALBERTO FUJIMORI WHEN HE APPEARED ON national television on April 5, 1992; “dissolve,” he repeated for emphasis, “the Congress of the Republic.” This was the most dramatic of several exceptional measures to “restructure” the state, but the president of Peru also announced he was reorganizing the judiciary, the Constitutional Tribunal, the Public Ministry, and the office of the comptroller general.<sup>1</sup> To the surprise of many observers, Fujimori’s “self-coup” (or *autogolpe* in Spanish) met with broad public approval and was backed by the armed forces. Since his actions were unconstitutional, however, they were subject not only to legal objections by the democratic opposition, but also to resistance from members of his own cabinet, some of whom had strong international connections and influence among creditors.

In an attempt to placate critics and remain in good standing with the international community, Fujimori announced at a meeting of the Organization of American States (OAS) that he would convene a constituent body, called the Democratic Constituent Congress (CCD), to replace the dissolved legislature and to rewrite the 1979 constitution. A newly drafted constitution, with broader executive powers, was produced by that body and submitted for approval by referendum in 1993. A key article of the 1993 constitution was a provision for one immediate reelection, thereby opening the door for Fujimori to run for another term in office in 1995.<sup>2</sup>

Fujimori’s self-coup broke constitutional arrangements—what Machiavelli called “dikes and dams”—designed to disperse, balance, and prevent the abuse of power.<sup>3</sup> The result was to concentrate power in the executive branch of government and erode mechanisms of accountability. The

Supreme Court, Tribunal of Constitutional Guarantees, and office of the Public Prosecutor were neutralized and brought under the control of the executive. The National Intelligence Service under Fujimori's corrupt spymaster, Vladimiro Montesinos, became so powerful that Fujimori made its headquarters, the "little Pentagon," his domicile.<sup>4</sup> A series of mafias emerged inside the state which began to assume functions of government hidden from public scrutiny or control. Fujimori's government collapsed when the president resigned and fled to Japan in the wake of a massive corruption and bribery scandal that broke in the middle of his efforts to seek an unconstitutional third term in 2000 (see Carrión 2006).

Why did Peruvians place their trust and faith in a strongman who tore up their constitution?<sup>5</sup> For starters, the country was in an existential crisis.<sup>6</sup> Many people feared that the state had entered a "strategic equilibrium" with the fanatical Shining Path insurgency.<sup>7</sup> Much of rural Peru was already under de facto military rule, and the insurgency, following a "prolonged peoples' war" strategy of surrounding the cities from the countryside, seemed to be strangling Lima. Voters had chosen Fujimori in 1990 because he promised to address problems that establishment politicians had neglected—including the need for a more efficient counter-insurgency effort. To achieve this, the temporary suspension of Congress did not seem like a high price to pay, and few people denied that Peru's notoriously corrupt judiciary needed reorganization. The capture of the Shining Path's leader Abimael Gúzman just a few months after Fujimori's *autogolpe* seemed to confirm that the self-coup had been a good decision.<sup>8</sup> Buoyed by this success, Fujimori's electoral vehicle *Cambio 90-Nueva Mayoría* won 44 of 80 seats in the CCD. The new Magna Carta was approved by 52 percent of the ballots cast in a referendum. After years of political violence and economic depression, Peruvians began to experience a sense of optimism about the future. Fujimori was reelected with 64 percent of the vote in 1995, securing 67 of 120 seats in the new Congress.

Fujimori was shrewd, if not prudent.<sup>9</sup> Growing up, he acquired the qualities of audacity and cunning that are celebrated in Peru's popular culture. He reveled in the role of the outsider, someone who had never been a member of an established party or held public office at any level of government. Once in office, he did not hesitate to use his power in a manner incompatible with his oath to uphold the constitution. Nor did he hesitate to make what Max Weber called alliances with "diabolical forces."<sup>10</sup> A few months before he closed Congress and suspended the constitution in 1992, Fujimori authorized a horrific massacre in the Barrios Altos neighborhood of Lima. Thus, he knew, even though most Peruvians did not, that he was in legal jeopardy. He had thrown his lot in with the most dangerous and ruthless elements of Peru's armed forces. By weakening mechanisms of accountability within an already precarious constitutional order, Fujimori

sought to guarantee impunity for himself and his allies in the armed forces. Ultimately, however, it would be systematic, egregious, and publicly unpalatable abuses of power committed by Fujimori and the security apparatus that would bring down his regime.

Although Fujimori's *autogolpe* provided a template for other leaders—including Russia's Boris Yeltsin<sup>11</sup> and Guatemala's Jorge Serrano<sup>12</sup>—its greatest weakness was the stain of illegitimacy that accompanies blatantly unconstitutional interruptions of the constitutional and democratic order.<sup>13</sup> It could not be said that the Peruvian *autogolpe* was wholly incompatible with popular sovereignty. On the contrary, to prevail, the president who carries out a self-coup must enjoy substantial popular support, as well as the backing of the military, and their actions may be retrospectively legitimated through elections and constitutional referendums. The core problem of the *autogolpe* is its indisputable unconstitutionality. This limited the likelihood that other leaders would copy Fujimori. Within a few years, however, a new script began to emerge, one of executive aggrandizement no less effective but harder to reject on constitutional grounds, and thus less risky to execute. It was a script that did not require a state of exception, and yet it put the executive in a position of the sovereign “who decides on the exception” (Schmitt 1985: 5).

In Venezuela, a former lieutenant colonel named Hugo Chávez Frías led a military coup attempt in February 1992. Born to a modest provincial family of school teachers in Venezuela's lowlands, Chávez joined the military where he was recruited into conspiratorial circles.<sup>14</sup> A defining moment in his life was the *Caracazo*, a week of rioting in February 1989 during which the Venezuelan military restored order through heavy-handed repression. Chávez saw it as a lost opportunity to support the insurrection and thereby forge a popular-military alliance for political change. He accelerated preparations for a military coup, in the hope of instigating a popular insurrection, which was set in motion in February 1992.

The coup failed, but Chávez's televised admission of failure (“lamentably, for now,” as he put it) helped turn him into an instant folk hero.<sup>15</sup> Meditating on his future in a Yare Prison cell, he came up with a new strategy: he would run for office with the promise that, if elected, he would rewrite Venezuela's constitution, creating a constituent assembly with full sovereign power. The novelty of the proposition was that the change in the constitution was announced as part of an election campaign, conferring upon it a certain electoral legitimacy. It proved to be a winning proposition. Chávez was elected in 1998, held a referendum in 1999, which prompted the resignation of the head of the supreme court, and won an overwhelming majority of the seats in the constituent assembly. As a formula of executive aggrandizement, this involved fewer risks for the executive and more difficulties for the opposition. The new script also

enabled the government to accompany constitutional change with opportunities for a more participatory politics.

Stripped of the rhetoric of Bolivarian radicalism, the case for Chávez's ostensibly democratic and constitutional revolution was similar to Fujimori's self-coup in one respect: the transformation Chávez wished to bring about demanded the accumulation of sovereign power in the hands of the executive. Although Chávez talked about constituent power and popular sovereignty, in practice, the power accumulated fell into his own hands. And although Chávez took pains to emphasize that the revolution was more than his personal project, it was clearly a project that was driven by the aggrandizement of executive power, even if that power was matched, and to some degree replicated, by participatory processes of social mobilization. The case for change was that without a powerful and enduring connection between the leader and the masses, it would be impossible to destroy the *ancien régime*. The justification for this assault on democracy was that the existing constitutional order was "moribund" (a phrase Chávez used during his investiture to signal a rupture with the 1961 constitution). The "moribund" system was based on a pact between two major parties—named *Puntofijo* after the residence of Rafael Caldera where it was signed—in which the spoils of power were shared. The pact was intended to avoid a return to military rule, but it reduced the meaningfulness of the choice for voters. No matter who Venezuelans voted for, the collusive system of party government ended up winning.<sup>16</sup> The system was described as a *partyarchy* (in Spanish, *partidocracia*), or rule of the parties, by political scientist Michael Coppedge, to highlight the contrast with Robert Dahl's "pol-yarchy," or rule of the many.<sup>17</sup>

Venezuelans who supported Chávez were enamored by his empathic capacity to connect with everyday citizens. As one working class Venezuelan told me during a visit to Caracas in 2000: "in the past, when I heard politicians on the radio, they seemed to be talking to each other. When I listen Chávez, I feel he is talking to me." Chávez was also a man of contradictions. He saw himself as a revolutionary and a democrat, but he was first and foremost a military man. As such, his conception of democracy was devoid of citizenship rights and replete with militaristic metaphors and tropes. Nevertheless, Venezuelans were tired of corruption, and they longed for a leader who would restore the prosperity of their oil-rich nation. Like Fujimori, Chávez was an outsider and that was part of his appeal: he was not contaminated by the corruption associated with the status quo. Many of Chávez's supporters yearned for a return to the era of *Venezuela Saudita*—the period of petrodollar-soaked prosperity and stability that ended with the stock market crash of 1983 and the subsequent neoliberal *gran viraje* (great turn) of 1989, when President Carlos Andrés Pérez (known by his initials as CAP) implemented the austerity measures that provoked the

*Caracazo*. This was followed by corruption scandals that led to the impeachment of CAP.

No fact is more essential to understanding Venezuelan politics than its possession of oil—not only because its proven reserves are greater than any other country in the world, but also because oil revenues feed the perception of natural resource wealth in the midst of endemic poverty. How can this contradiction be explained? For many Venezuelans the answer was clear: the nation's oil wealth had been plundered by economic and political elites—corrupt bankers, self-dealing politicians, and top bureaucrats working in the so-called “meritocracy” of the state-run oil company.<sup>18</sup> Moreover, if Chávez was not exactly a by-the-book politician, he was nonetheless committed to peaceful revolution by creating a new constitution. Like Fujimori, he used presidential powers to reorder the political system in accordance with his interpretation of the mandate voters had given him.

And yet the new constitution of 1999 significantly enhanced executive and military powers and set in motion a process that would culminate with the construction of an electoral authoritarian regime. This would not happen all at once, and the worst excesses of the regime Chávez helped build would occur after his death due to cancer in 2013. But under Chávez, the constitution was changed yet again in a 2009 referendum to allow indefinite reelection, and over time the government captured and took control over all other branches of government and independent agencies thereby undermining democratic accountability. Many of the same dynamics that turned Peru into an electoral authoritarian regime after the 1992 self-coup were also played out in Venezuela, including the growing abuse and corruption that accompanies the concentration of power. Perhaps the most critical tension in the Venezuelan regime was between its revolutionary aspirations and its desire for electoral legitimacy. As a revolutionary project aimed at tearing down the *Puntofijo* pact, Chávez's Bolivarian process identified the establishment parties as the enemy, and thus denied them the legitimacy of an opposition entitled to serve in public office should they win enough votes. Under Chávez, every election became a battle to defend the revolution against its enemies. The opposition parties, for their part, questioned the electoral legitimacy of Chávez and especially his successor, Nicolás Maduro.

Just as Fujimori's self-coup provided a template for similar events in Russia and Guatemala, the Bolivarian script was reenacted in Bolivia and Ecuador—but with modifications.<sup>19</sup> Ecuador followed the Venezuelan model, but with an important caveat: the strongman who emerged there was an academic not a former military officer. Rafael Correa adopted a Venezuelan-style reform process, but without strong military participation or a desire to establish a civil-military regime. Correa nevertheless shared with Chávez a deep hostility to established parties. This he demonstrated by

running for office without a congressional slate, and then quickly staging a referendum for a constituent assembly. A conflict immediately erupted between the president and the sitting Congress. The Congress attempted to impeach the president, who in turn dismissed opposition members of Congress who opposed him. Having prevailed over his adversaries, Correa's Constituent Assembly was convened in 2007, and the new constitution was approved in a 2008 referendum.

Correa's supporters pointed to his remarkable popularity during his tenure in office, which was due in no small measure to his willingness to spend on social programs. Correa described his version of political change as a "citizens' revolution." The constitutional reform in Ecuador was one of the most participatory processes ever undertaken to write a constitution in Latin America. The result was a decade of relative stability—in sharp contrast to the previous decade when seven different presidents rotated through the government palace. Yet despite the initial emphasis on citizenship and participation, Correa violated the spirit and letter of his own constitution, criminalizing dissent and bullying opponents. What started as a participatory style of rule became increasingly autocratic.

Critics pointed to Correa's authoritarian personality.<sup>20</sup> Even at an early age he enjoyed playing at being president and would designate friends as members of his imaginary cabinet. The son of a negligent and unsuccessful provincial *hacienda* owner who served jail time in the United States for drug running, he was brought up by a dignified, devout, and self-sacrificing mother. Exposure to rural poverty and liberation theology as a catechist gave Correa a social justice orientation. After studying economics, he became intensely critical of neoliberal policies like dollarization that, he believed, had wrought debt, economic destruction, indignity and a loss of sovereignty on Ecuador. His passionate views made him intolerant of opposition and unwilling to share or negotiate power. Correa governed in a highly plebiscitary manner for two terms.<sup>21</sup> In 2017, in accordance with the constitution he helped design, he stepped down. In this respect, he was unlike Chávez. He did so, in part, because he believed his successor was loyal and would clear the path for him to return to power at a later date. As it happened, Lenín Moreno had his own plans. Once elected, he not only broke with Correa, but also convened and handily won a referendum in 2018 to eliminate the possibility of reelection, thereby blocking Correa's path to a future electoral victory.

Perhaps the most intriguing variation on the pattern of executive aggrandizement came from Bolivia's Juan Evo Morales Ayma, who was elected president in 2005. If ever there was an improbably journey from humble beginnings to the apex of political power, it is the story of the rise of Morales to the seat of Bolivia's presidential palace.<sup>22</sup> It is not a story told to burnish a myth of individual social mobility or national exceptionalism. It is the story

of the partial fulfillment of generations of collective effort to end colonial domination and minority rule. It is also the story of the struggle for democracy and citizenship in a land of many cultures, languages, and nations.

Evo, as he is popularly known, was born in the village of Isallawi in the canton of Orinoca, near Lake Poopó (now dry due to climate change) in the highlands. He grew up among the poorest people in one of the poorest countries in the Western Hemisphere. Only three of the seven children to whom his mother gave birth survived. His father was a shepherd of llama and sheep, and Morales worked in the fields and traveled with his father as far as northern Argentina for seasonal work. From his earliest years, Morales came to appreciate the power of the spoken word. His first language was Aymara, the tongue of his parents (who could neither read nor write in Spanish). “When I first went to school in the city, the other children would laugh at me and call me ugly because I was Aymara. If I spoke my language, they would laugh and know I was Indian, and at that time, I didn’t speak Spanish, so to avoid being laughed at, for a long time, I didn’t speak at all.” Morales was told that, during the time of his grandparents, Aymara people who learned to read could be blinded, and those who learned to write could have their fingers chopped off.<sup>23</sup>

Morales’s experience with community activism began after his parents migrated to the Yungas and then to Cochabamba, where many peasant families were resetting in order to take advantage of the opportunity to cultivate the lucrative coca leaves. As a coca cultivator, Morales became a member of the *sindicato*—an organized civil society movement inspired by early-twentieth-century European syndicalism—to which his plot of land, or *chaco*, both entitled and obligated him. As a member of the *sindicato*, Morales learned to speak in public and to organize his fellow peasants. He was appointed secretary of sports in 1981, and in 1985, at the age of 29, he became the leader of a peasant federation. For Morales, the federation of the *sindicatos*, with its emphasis on grassroots participation, shared leadership, constant communication and consultation with the rank and file, and a decentralized organizational structure, was a model of direct democracy and of leadership based on service. A key principle governing the social movements that constituted the Movement Toward Socialism (MAS) was *mandar obedeciendo*, leading by obeying.

Evo’s commitment to grassroots democracy did not impede him from running successfully for congressional office in 1997. He was buoyed by the social movements that mobilized in opposition to privatization of water and the selling off of Bolivia’s natural gas to foreign multinationals. In 2005 he was elected president with 54 percent of the vote. Morales’s earlier work in the coca-cultivating *sindicato* had brought him into conflict not only with Bolivia’s law enforcement agencies but also with the United States which was committed to coca eradication. In office, he committed

to ending the war on coca-cultivating peasants, land reform, nationalizing the gas industry.

Like Chávez and Correa, Morales was propelled into power from below by dint of widespread admiration for his capacity for sacrifice and trust in his commitment to serve the people. Morales's willingness to negotiate and find compromises is reflected in the way he balanced different pressures while in office. Under Morales, as Santiago Anria and Jennifer Cyr argue in this volume, Bolivia became a more inclusive and participatory democracy even as it became less liberal. Morales's promise to rewrite the Bolivian constitution was not a matter of emulating Venezuela—it was a demand of Bolivia's popular and Indigenous movements which had been left out of the constitutional reforms in previous decades. Morales convened a new Constituent Assembly in 2006 but lacked the supermajority necessary to pass the constitution drafted by his party, the MAS. To break the impasse, the draft document was sent to the Congress, which had never been dissolved, where it was approved with modifications before being submitted to referendum in 2009. The constitution was approved, and Morales submitted himself to reelection at the same time.

And yet even in the case of Bolivia, where the president seemed to be constrained by accountability to social movements, if not to independent branches of power, the temptations of personalism and desire for reelection proved irresistible. When Morales's second term ended in 2009, he made the case, as Fujimori did before him, that notwithstanding the provisions of the constitution of 2009 that presidents can only be reelected once, he should be able to serve again because his first term was prior to the new constitution. The Constitutional Tribunal accepted the argument, allowing Morales to serve another term starting in 2014. Yet this was not enough. Claiming that grassroots supporters wanted him to run yet again, for what was, in effect, a fourth term, Morales put the question to a referendum in February 2016. When he lost, he challenged the results in Constitutional Tribunal again, and compliant judges again ruled in his favor, saying that the referendum result violated his right to run for office.

Morales's attempted reelection in 2019 raised fears that he was unwilling to relinquish power. When the election was marred by seemingly credible allegations of fraud, these fears intensified. Whether Morales won enough votes in the 2019 general election to assume office, as he claimed, or fell short and would have faced a runoff, remains hotly contested. But the appearance of irregularities in the election, following upon the manipulation of the courts to allow him to run despite losing a referendum on his candidacy, was enough to lead to widespread protests. A civic struggle to defend democracy was unleashed. The withdrawal of military and police support produced the inevitable result: Morales fled the country and the government fell. Although it was a shabby denouement for an historic leader, the

removal of Morales had the positive consequence of restoring alternation in power by preventing the circumvention of term limits. Luis Arce, Morales's minister of the economy, who was widely praised for his management of the economy, joined forces with David Choquehuanca, a politician with considerable credibility among Indigenous movements, to rejuvenate grassroots support for the MAS without Morales at the helm. The promise of MAS's policies without Morales's personalism proved attractive enough to win with an absolute majority of the vote, 54 percent, in 2020.

In each of the above cases, presidents have sought to expand their powers, encroaching on other constitutionally independent branches of government. As Guillermo O'Donnell argued, encroachment involves violations of the mechanisms through which public agencies hold each other accountable. This is often motivated by the desire to eliminate term limits. Fortunately, executive encroachment does not always succeed. In the case of Colombia, Álvaro Uribe Vélez, elected president in 2002, eliminated the prohibition on re-election in Colombia's 1991 Constitution, thereby allowing him to run again in 2006. He did not succeed, however, in his bid for a third term. Colombia's powerful constitutional court, which was created by the 1991 Constitution, ruled that such an extension of the presidential term would undermine the separation of powers. Even so, Uribe's two consecutive terms meant that, since independence, no other leader—not even a dictator—had held power in Colombia for so long (Posada-Carbó 2011).

It is puzzling, as Jan Boesten notes in his chapter, that Colombia has a well constitutionalized political system, with a robust separation of powers and the rule of law that regulates political life at the elite level, even as the society, particularly in its poorer and more vulnerable segments, is beset by violence and crime. Oligarchical forces linked to the two major political parties with roots in the nineteenth century, the Liberals and Conservatives, have used violence to thwart reformist impulses. Thus, although Colombia has been spared the typical Latin American sequence of changes—the breakdown of the oligarchic state, followed by populism and the pursuit of import substitution industrialization (ISI), and then the crisis of ISI, debt, and neoliberalism—this has come at a high cost. Populism was prevented by the assassination of the populist leader of the Liberal Party, Jorge Eliécer Gaitán, in 1948, followed by a decade of partisan violence known simply as *La Violencia*. A political pact, the National Front, much like Venezuela's *Puntofijo* pact, put an end to the violence and enabled alternation between the two major parties, but it excluded the left which initiated decades of guerrilla warfare. Without a national-popular coalition in power, ISI was never vigorously pursued, which meant Colombia largely escaped the debt trap and thus neoliberal reforms in the 1980s were less wrenching. However, Colombia was left with an oligarchic polity, in which the law and constitutionalism

effectively regulated official political life, while and massive social violence troubled the *pais profundo*.

Uribe's own biography reflected the tensions and contradictions of Colombian politics.<sup>24</sup> He was born in 1952 into a family of landowners and ranchers in Antioquia department, in the town of Salgar, several hours from Medellín. There he began his political career, financed by the Medellín cartel. In 1982, at the age of thirty he became mayor of Medellín. In 1983 his father, a friend of Pablo Escobar, was killed on one of his estates as he resisted a kidnapping attempt by guerrillas of the Revolutionary Armed Forces of Colombia (FARC). As Uribe moved up politically, from municipal politics to the Senate and then Governor of Antioquia, his ties to paramilitary organizations—groups formed to defend rural landowners against kidnapping attempts by the guerrillas—made him the target of multiple assassination attempts. He developed close connections with elements within the military that were in league with the paramilitary groups unified under the name United Self-Defense Forces of Colombia (AUC). In Antioquia, Uribe developed a strategy of enlisting civilians in the fight against the guerrilla. He won the presidency with a promise of providing “democratic security,” a made-in-Colombia version of the war on terror that emphasized strengthening the military through the US-funded Plan Colombia, negotiating a truce with the paramilitaries, and creating networks of civilians to provide intelligence to the armed forces. His strong-arm approach won wide approval and he was reelected in 2006.

Although Uribe and Chávez were ideological opposites, in some respects they were similar—they were both Caesarist leaders. Indeed, both espoused a Bolivarian conception of politics. Uribe admired Bolívar's “concept of order,”<sup>25</sup> and professed to have memorized part of his “Message to the Convention of Ocaña,” a text that contains all the key elements of Caesarism in politics: the need for strong executive authority, including veto power over the legislature; a corresponding reduction in the power and prerogatives of Congress and the courts; respect for martial virtues; and separate courts for the military.<sup>26</sup> Like Chávez, he used executive power aggressively, built linkages between the military and civil society, and did not hesitate to ride roughshod over the Congress and courts. Also, like Chávez, Uribe used community councils to build a direct connection between the executive and the local communities.

Several major scandals dogged Uribe while in office. In 2006, the media revealed that many of Uribe's supporters Congress had ties to paramilitary groups, and further investigations revealed that they received funding from these illicit organizations. At the same time, evidence emerged that Uribe was wire-tapping magistrates and members of the opposition. Uribe's administration was also damaged by extrajudicial executions. Motivated by lucrative benefits and promotions, members of the armed forces were killing

innocent civilians and claiming them as war casualties. Over 800 soldiers were ultimately convicted, but no senior brass.<sup>27</sup> And yet, despite the extraordinary criminality of the Uribe government, the president was unsuccessful in fundamentally altering the constitutional order in order to perpetuate himself in power. Therein, once again, lies the Colombian paradox.

### **Three Puzzles, Three Dilemmas, and Three Challenges**

#### *Puzzles*

The history of self-coups, executive aggrandizement, and constitutional ruptures, poses three empirical puzzles for students of democracy. The first is that in the post-Cold War era, crises of democracy have tended to be the result of subtle threats rather than overt military coups. During the Cold War, military coups (such as in Argentina in 1966 and 1976; Brazil in 1964; Chile in 1973) typically occurred when ruling elites responded to revolutionary threats with repressive measures. Such coups were often supported, sponsored, or even initiated by the United States, as in the case of Guatemala in 1956. The greater the perception of threat, as in Chile and Argentina, the more repressive the military regime tended to be. In the post-Cold War era, however, coups have become rare events. Likewise, revolutionary movements have largely fizzled: the last to ascend to power in Latin America was Nicaragua's Sandinista revolution in 1979.

The countries in the region that do not meet the minimal criteria for classification as democracies are burdened by legacies of the Cold War. They fall into three categories. The first are oligarchies with electoral façades in Central America. The second is the Cuban revolutionary regime. The third are electoral democracies that have degenerated into electoral authoritarian regimes, most notably Nicaragua, a caudillo-type personalistic dictatorship under the rule of Daniel Ortega, and Venezuela, also an electoral authoritarian regime. The fact that electoral victories were used in the cases of Venezuela and Nicaragua to establish authoritarian systems underscores the problem: democratic institutions and practices can be used by elected officials to undermine democracy.

The second puzzle is that threats to democracy arise increasingly from the actions of elected leaders rather than military officers. Whereas military coups involve a change in government, typically justified by the need to defend the homeland against perceived threats, self-coups do not change the government, but rather alter the constitutional order (Svolik 2015). As the threat of revolution has subsided, the political pressures that led to repressive military rule in the Cold War era have also diminished. The formation of authoritarian coup coalitions is much more difficult, albeit not

impossible.<sup>28</sup> The sharp contrast, and violent oscillation, between electoral democracies and military dictatorships, so conspicuous in the 1970s, has largely given way to a greater durability of more or less democratic regimes, and where more hybrid or electoral authoritarian regimes have emerged, they have done so gradually rather than by coup d'état.

Democracy is at least rhetorically accepted by both established elites and their challengers in nearly all countries in the region, and for the most part alternation in power occurs with regularity. And yet demands for social change arising from persistent inequalities continue to threaten the interests of wealthy elites. Consequently, we observe periodic irruptions of more radical movements, parties, and leaders, as well as reactionary responses by elites, with the result that there is a fair amount of careening between radical pressures for political change and oligarchic resistance and repression. This careening, to use Dan Slater's (2013) term, tends to encourage hybrid regimes that occupy the gray zone in between a fully-functioning representative democracy and a repressive oligarchy. For the most part, Latin America's hybrid regimes hold elections, and their rulers depend on elections for their legitimacy, but both the political left and the right frequently deploy methods of rule that are more typical of nondemocracies. In particular, they often seek to centralize power in the executive branch at the expense of the separation of powers and the rule of law.

The third puzzle is that the antidemocratic actions of democratically elected officials often meet with public approval—and this facilitates the reelection of autocratic incumbents. Satisfaction with democracy among the public does not always align with perceptions of its strength by academics. Autocratic leaders with broad support can improve satisfaction with democracy even as they destroy its institutional supports, especially when abuses of power are justified by the need to fulfill democratic mandates.<sup>29</sup> Both Chávez and Fujimori were seen by absolute majorities of voters as improving democracy even as they assaulted democratic institutions. Satisfaction with democracy in Venezuela peaked in 2007, and even at the end of Chávez's tenure in 2013, satisfaction with democracy was higher than under the previous *Puntofijo* regime.<sup>30</sup> At no point since Fujimori left office has satisfaction with democracy reached the levels it attained during his rule.<sup>31</sup> Correa enjoyed high approval ratings throughout his term in office. No Bolivian opposition figure ever matched Morales's popularity, and the same is true of Uribe. This suggests that many voters are more interested in substantive results than democratic procedures regardless of ideological leanings. Leaders are elected to get things done, and if constituted institutions are a hindrance, then a dangerous societal consensus around the need for nondemocratic actions may form. Public support for less-than-fully-democratic practices—or, rather, the public perception that such practices are fully compatible with a particular notion of democracy—can reinforce

antidemocratic behavior by leaders on both the left and the right. On the left, governments may concentrate power on the grounds that major social change demands the accumulation of power, while on the right the same argument is made in defense of political order and security.

### *Dilemmas*

Solving these empirical puzzles demands that we come to terms with three deeper analytic dilemmas. In the first place, we need to understand the diversity of democratic regimes. Following the work of Guillermo O'Donnell (1996), the authors of the studies in this volume dispute the notion that there is a single type of consolidated democratic regime. A regime that lacks certain attributes of the political regimes in nations with long histories of democratic rule should not be presumed to be an immature version of established democracies. Instead of a teleological process of consolidation by which regimes converge on a single universal endpoint, there has been a proliferation of diverse democracies. This is why the post-Cold War political science literature generated so many adjectives for democracies, like delegative democracy or illiberal democracy (Collier and Levitsky 1997). Although these are often seen as "diminished subtypes" of fully democratic regimes, they have, with all their deficiencies, proven remarkably enduring. We reject the hubristic view that the kind of democracy that happens to be dominant in one part of the world at a particular moment represents the "end of history" for the rest of the world. The presumption that the end of the Cold War meant all tensions or contradictions within society could be resolved within liberal democracies (see Fukuyama 1989) proved premature. Democracy contains multiple dimensions that do not co-vary in orderly ways, even where long established. It may be the "only game in town," (Linz and Stepan 1996: 5) but it is a game that can be played with a wide variety of rules, players, and stakes.

In the second place, researchers studying democracy need to work simultaneously with dichotomous and continuous regime concepts. Democracy can be present in degrees, and in a diversity of shapes, but that does not eliminate the imperative of distinguishing between regimes that are democratic and those that are not. Democracy and non-democracy need to be clearly distinguished even as we explore the gray zone in between (that is, hybrid regimes). The reasons for this are both analytical and political. Analytically, concepts need clear boundaries to be useful. A contribution of the comparative study of politics is to provide a language for understanding politics that enables observers and participants alike to grasp the full meaning and consequence of their actions. Concepts are not only building blocks of theory, they also guide action. In politics, democracies are treated differently by other democracies, and regime opponents play by different rules depending on the type of regime. For this reason, it is important

that the language used in scholarship does not become too remote from those language of political practice.

This brings us to the third analytical challenge. Democracy is not merely a regime; it is a constitutive part of a particular forms of associational life. The defining feature of specifically democratic life forms is citizenship—the idea, going back to antiquity, that the members of a political community should be treated as free and equal participants in a process of self-government. It was variations on this idea that inspired the Latin American struggle for republican independence, that transformed constitutions into instruments of popular sovereignty, and that sustained the demand for human rights. And yet citizenship has never been egalitarian, and its actual practice has continuously fallen short of its potentiality—whether due to the persistence of colonial, oligarchic, corporatist, populist, or neoliberal arrangements. The citizen as an agent—that is, a person with a capacity for practical reason and moral judgment—is at the core of the democratic bargain, or what O’Donnell (2010: 25-28) called the “institutionalized wager.”

### *Challenges*

Taking these empirical puzzles and analytical dilemmas seriously poses fundamental challenges to the democratization literature: the need to come to terms with liberal, Eurocentric, and status quo biases that tend to reflect the positionality of scholars in the field of study. Unacknowledged liberal biases have shaped research agendas in ways that constrict our understanding of democracy. Liberal democracy is one type of democratic regime, but not the only one. It scarcely needs to be said that democracy preceded liberalism, and that liberalism is less widely embraced than democracy: the widespread phenomenon of illiberal democracy is sufficient to establish that claim. Rather than presume that democracy must be liberal, we find it more fruitful to follow O’Donnell’s suggestion that democracy, liberalism, and republicanism form three distinct schools of thought and praxis, and in Latin America the liberal and republican traditions are often weaker than democracy. The assumption that democracy must be liberal dangerously presumes a kind of universality at odds with the complex ways in which liberalism has been received in those regions of the world in which it did not originate but rather was imported and adapted to different circumstances. We do not eschew the term liberal democracy—which is apt enough wherever democratic and liberal theory and practice mix—nor do we assume that democracy subsumes liberalism or vice versa. Indeed, in the Latin American context, liberalism has often been associated with authoritarianism and democracy with illiberal majoritarianism.

A further problem arises, which is closely connected to unacknowledged liberal biases: Eurocentrism. The concept of Eurocentrism usefully

calls attention to world-historic time and space—that is, to the centrality of Europe in the origin and spread of capitalism as a global system spanning five centuries (Quijano 2007). It is the fact that the industrial revolution and the spread of capitalism started in Europe that should command attention. Mainstream cultural theorists were wrong to suggest that Latin America missed the industrial revolution and the Enlightenment (a failing that was taken by Eurocentric authors to account for Latin America's presumed authoritarianism, Catholicism, and underdevelopment [see Wiarda 1973; Morse 1954]). These theories reified a more fluid reality. It would have been more accurate to note that Latin America experienced industrial modernization and Enlightenment *after* and *under the influence* of Europe and North America. Latin America worked through the issues of economic development and the democratization in the context of a world in which these processes had already begun elsewhere. Latin America had Europe and North America as models as it struggled to come to terms with economic dependency and development, or in fashioning constitutionalism and democratic order. Rather than “othering” Latin America, as essentially different from Europe and North America, we take their developmental trajectories to be intertwined through histories of colonialism, imperialism, and a broad spectrum of forms of intervention that continue to this day.

Finally, there is a bias that is perhaps inherent in the human condition, which is to favor the status quo. It is easy to underappreciate the impermanence and contingent nature of all political settlements—including those founded on democratic, liberal, and republican principles. Among these principles is the idea that if democracy is to be meaningful it has to mean more than the periodic rotation of elites. It must mean that real power is placed in the hands of the people, not only to decide who is to govern them but the manner in which they are to be governed. Recent events in the United States serve as a cautionary reminder that no constitutional order is permanent, and that democracy is always a work in progress. As such, it is critical to understand change as inevitable and therefore institutions must continuously evolve and adapt.

## **A Note on the International Context**

International factors often play an important role in democratic crises. In classifying types of regime change we have used the language of the Inter-American Democratic Charter, not because it offers an especially coherent conceptual scheme, but because it aligns our work with the jurisprudence of democratic rights and freedoms in the inter-American system and gets us closer to the mental worlds of the political agents we seek to understand. Our work is intended to be helpful to policymakers by ensuring that when

we indicate a regime has crossed the threshold between democracy and authoritarianism it loses membership in good standing among the club of democratic nations. As the oldest regional project in the continent, the Organization of American States (OAS) seeks to provide mechanisms for the democratic and peaceful resolution of conflicts.<sup>32</sup> The successful role of the OAS in facilitating a return to democracy after the collapse of the Fujimori regime created a momentary democratic consensus in which it was possible to negotiate and approve the Inter American Democratic Charter.

The charter provided OAS member states with an instrument to address regime changes when, in the judgment of the inter-American community democracy was at risk of impairment—that is, an “unconstitutional interruption of the democratic order” might occur.<sup>33</sup> The mechanisms at its disposal are varied, namely: investigation and reporting, diplomacy and good offices, mediation and ultimately, suspension of the membership. The OAS lacks, however, the ongoing capacity to monitor and report on the state of democracy in the region. Chapter 2 of this book contributes to this debate by analyzing contemporary types and subtypes of regime crises and patterns of constitutional change in region using the vocabulary of the Democratic Charter.

The Democratic Charter has been less effective than initially expected. Political polarization by oscillations between neoliberalism, Latin American left turns, and the subsequent conservative backlash have undermined regional collaboration and consensus-building under the rubric of the Charter. After the attempted coup d'état in Venezuela in 2002, OAS efforts to avoid a democratic breakdown failed to avert the transition to authoritarianism (see Chapter 3). The Community of States of Latin America and the Caribbean (CELAC) was created by left-wing governments to compete with the OAS in assessing and protecting democracy in the region, with more of a focus on avoiding attacks against sitting incumbents.<sup>34</sup> Conservative leaders have vacillated between disregarding and supporting OAS efforts to support democracy, and the Western Hemisphere has ceased to enjoy a consensus on the meaning and conditions necessary to sustain democracy. As regional support for democratic institutions falters, fewer crises are likely to be averted. Thus, the erosion of a regional commitment to democracy is also part of the story of backsliding. It is also a reflection of a deeper problem: the lack of a shared understanding of democratic rule.

## **Organization of the Book**

The history of self-coups, executive encroachments, and constitutional violations in the Andean region underscores the need for a theory of democracy that looks beyond elections and votes. Guillermo O'Donnell serves as

our guide as we explore such a theory in Chapter 2. O'Donnell recognized that the electoral and representative aspects of a democratic regime depend on what he called surrounding rights and freedoms. These both constrain and stabilize democracy. They include guarantees of rights and freedoms necessary to ensure that representative institutions function as mechanisms of "vertical" accountability of rulers to citizens: the right to organize and assemble, freedom of speech, and a free press. Without these basic guarantees, democracy is not only prone to careening, it becomes a façade for oligarchy. They are not only the first line of defense against autocratic rulers, they are essential to the functioning of electoral democracy. One of the great challenges of democratization in Latin America is the fact that liberalism is historically weak and compromised by association with both elite interests and indifference to the common good. Liberalism's emphasis on individual autonomy, the protection of private property, and the rule of an impartial state is misaligned with the challenges of building democracy in highly unequal, postcolonial settings.

It is not only the surrounding rights and freedoms that must be constructed in the distinctive setting of inegalitarian postcolonial arrangements, but also the typically (but not exclusively) republican features of democratic regimes that ensure the accountability of public agencies to one another "horizontally": the separation of powers, the rule of law, and the supremacy of civilians over the armed forces. Where such mechanisms of horizontal accountability are weak, the theory of democracy must encompass the state as well as the regime. When presidents encroach on the powers of legislatures, courts, or other independent agencies of the state, they may act with broad public approval from citizens who have never felt protected by the rule of law, but the damage to democracy is great nonetheless because democracy is not just a system in which parties lose elections—it is a type of constitution, or "way of organizing those living in a state" (Aristotle 1962: 102).

Turning to the chapters devoted to case studies, we begin with the three most dramatic recent examples of executive aggrandizement: Venezuela, Bolivia, and Ecuador. Chapter 3, by Michael McCarthy, analyzes the erosion of democracy that occurred in Venezuela under Hugo Chávez (1999–2013) and the process of autocratization that continued under his successor Nicolás Maduro (2013–present). Unlike the self-coup in Peru, the process of executive encroachment occurred over time and under the cover of republican refounding. Moreover, it was justified by a governing project that sought to move Venezuela away from neoliberal capitalism toward a socialist system. In attempting to break with the *Puntofijo* pact, but retain the legitimacy of democratic constitutionalism, Chávez convened a constituent assembly to rewrite the constitution. However, Chávez's governing project made little room for the opposition, which, in turn, faced the

difficult strategic choice to participate in elections in which the deck was stacked against them. As Chávez consolidated his power, he found new means of executive aggrandizement. In what amounted to a constitutional coup, he exerted ever-greater control over election authorities, the courts, the media, and mass organizations; used plebiscitary means to eliminate term limits on the presidency; and restricted who could run for office, thereby violating voting rights, and preventing elected officials from holding office. When Chávez died, his successor, Maduro chose not to risk opening the political system and instead continuing the constitutional coup playbook by using the power of the presidency to obstruct the legislature, which the opposition won by a super-majority in 2015, blocking recall in 2016, convening another constituent assembly to usurp legislative powers, and holding presidential (2018) and legislative (2020) elections that fell well short of democratic standards.

Chapter 4, on Bolivia, by Santiago Anria and Jennifer Cyr, offers a nuanced and subtle interpretation of the Bolivia regime that steers clear of the label competitive authoritarianism—which implicitly prioritizes Dahl’s emphasis on contestation while neglecting his emphasis on participation—while, at the same time, recognizing the deficiencies of democracy under Evo Morales. Thus, Bolivia under the MAS is lauded for advancing inclusion while liberal rights and freedoms—always tenuous in Bolivia, both under the MAS but also under the earlier system of elite pacts—languished. More problematic for the democratic evolution of the regime was the violation of the constitutional limits on reelection. Having used an intelligently modified version of the Venezuelan formula for constitutional change, Morales did not prudently stop, accept the constraints imposed on him by his own constitutional order, and cultivate a successor; he persisted in executive aggrandizement to perpetuate himself in power. Nonetheless, the MAS was favored by Machiavelli’s *fortuna*. A civil society coup removed Morales, allowing new elections to be held in which a new leader of the MAS emerged victorious, thereby giving Bolivia a chance to deepen the institutionalization of alternation in power while continuing the process of republican refounding.

Chapter 5, on Ecuador, by Grace Jaramillo, documents the erosion of democracy under Rafael Correa (2007–2017), followed by a surprising restoration of key components of the democratic regime under his anointed successor, Lenín Moreno. The political dynamic that prevented the further erosion of democracy involved an about-face by Moreno who, as Correa’s Vice President, gave no indication of his disagreements with Correa. Once elected, however, he called a referendum to change the constitution to prevent Correa from returning to office. Correa had agreed to abide by the terms of the 2008 constitution, which permitted two consecutive terms in office, but he introduced a constitutional amendment, which would have entered into force after the 2017 election, to eliminate term limits. He never got the

chance. Moreno's referendum in the fall of 2017 restored term limits and banned anyone convicted of corruption from running. Found guilty of corruption in absentia in 2020, Correa could not return to power in 2021, and the candidate for Correa's party, Alianza País, narrowly lost the election to an establishment politician, Guillermo Lasso.

The next two chapters examine the state of democracy in countries that have avoided the kind of radical populism that is antagonistic toward neoliberalism. Chapter 6, by Carmen Ilizarbe, focuses on Peru and the lasting effects of Fujimori's neoliberal constitution on the body politic. In the past decade, Peru has undergone a process of democratic reversal. In a country where rapid economic growth coexisted with persistent inequalities, the neoliberal model enshrined in the 1993 constitution, adopted by Fujimori as a way of retrospectively legitimating his self-coup in 1992, compelled ordinary Peruvians to represent themselves through the informal institutions of contentious social protest rather than through formal mechanisms of representation. Even after two decades of alternation in power between civilian governments, the political regime has been unable to develop a coherent party system or other vehicles for popular participation. Without inclusive and egalitarian citizenship, and plagued by corruption and abuses of power, the political system began to lurch from crisis to crisis as actors within legislative and executive branches contended for hegemony. The Peruvian case exposes the fallacy of neoliberal growth-first policies: even when markets generate growth, the democratic state has a crucial role to play to address social needs.

Chapter 7, on Colombia, by Jan Boesten, begins with the paradoxical coexistence of a stable democratic regime and high levels of political violence. Elections occur with regularity, and they are competitive; moreover, since 1991, Colombia has had the benefit of a robust constitutional order. The constituent process leading to the approval of the constitution was sufficiently pluralistic and deliberative to confer legitimacy upon it. Thus, Colombia has a *de jure* liberal regime with the *de facto* capacity to resist executive encroachment. And yet, large parts of the nation's territory remain what O'Donnell called "brown areas" where the presence of the state, and thus its capacity to guarantee citizenship rights, is limited. In these areas, local oligarchic sectors and armed non-state actors operate with relative impunity. The playing field is not so much uneven as it is strewn with landmines—literal and figurative. In these local areas, the courts cannot be as effective. The logical prescription would be to expand the reach of the central state, and yet it is precisely pacts among oligarchic elites at the local level that give Colombia its violent stability. This underscores the tension between liberalism in Colombia, which finds its greatest expression in the defense of justice in the constitutional court, and Colombia's long republican tradition of elite pacts.

The next two chapters are thematic. Chapter 8, by Jason Tockman, explores the tension between representative democracy and Indigenous

rights to self-determination. He notes that democratic regimes in the Andes have both enabled and impeded Indigenous movements, especially with respect to self-determination, territorial control, and free, prior, and informed consent. Recent democratic innovations in countries like Bolivia and Ecuador, while promising, have met with resistance from within democratic regimes because they threaten to transform the colonial origins of the state in ways that are difficult to reconcile with representative democracy in its various liberal and republican dimensions. Tockman recommends nation-to-nation dialogue as a path forward, and he suggests that the democracies must allow spaces for communitarian practices of self-government even if that means the state withdraws or suspends its institutional constraints where necessary to enable self-determination.

Chapter 9, by Verónica Hurtado and Paolo Sosa Villagarcía, explores the effect of the pandemic on politics in each of our cases. Surveying the four components of democratic processes during 2020–2021, they identify three possible sources of democratic erosion: support for authoritarian policymaking, dissatisfaction with regime capacity, and loss of legitimacy of elections. They find that democratic performance was affected in each case but in different measure. Colombia, Ecuador and Peru registered higher political engagement and mass mobilization in defense of democracy, while in Bolivia and Venezuela, opposition figures were persecuted, and the role of the armed forces was dangerously increased.

The final chapter explores Andean political regimes in comparative perspective, highlighting three themes: legacies of executive aggrandizement; the dilemmas of presidential re-election; and contention over models of democracy. It concludes, first, that the debate on democracy needs to recognize the critical importance of the republican dimension of regimes. Second, regimes are only as good as the states that support them. A formally democratic regime, implanted in a neopatrimonial state, is likely to perform, in practice, more like an oligarchy than a liberal democracy. Third, the path toward a citizens' democracy—that is, toward a more just balance between the requirements of democracy, liberalism, and republicanism—is found neither by tinkering with existing institutions nor the embrace of populism, caesarism, personalism, and delegative rule. The struggle for democracy is ultimately about both seizing and sharing political power in a system of rule based on citizenship.

## Notes

We are grateful to Michael McCarthy for comments on this chapter, and beg the indulgence of Terry Lynn Karl for adapting the title of her important 1990 article for our purposes.

1. Fujimori's speech is available online: <https://youtu.be/gPot4vZCdP0>
2. Studies of Fujimori's self-coup include Mauceri 1996; Cameron and Mauceri 1997; Cameron 1998; Kenney 2004; Conaghan 2005; Carrión 2006.
3. See Schmitter and Blecher 2021: 15.
4. Bowen and Holligan 2003.
5. The term "strongman" denotes Caesarist or Bonapartist leaders, or, in Spanish, the caudillo. All the caudillos we discuss in this book were men. Ruth Benghiat (2020: 7–8), in her 2020 book *Strongmen*, notes the gender dimension of strongman rule: "The leader's displays of machismo and his kinship with other male leaders are not just bluster, but a way of exercising power at home and conducting foreign policy. Virility enables his corruption, projecting the idea that he is above laws that weaker individuals must follow."
6. Over 69,000 lives were lost.
7. The term was used by the Maoist rebels; see Brook 1991. On the Shining Path, see Palmer ed. 1992.
8. Fujimori, "A Momentous Decision," in Starn et al. 1995. Meticulous police investigation had revealed Gúzman's hiding place and led to his arrest.
9. Politicians often lack the prudence and foresight to anticipate the effects of their decisions, and Cameron saw this firsthand in 1997. Fujimori had been invited to Ottawa on a state visit. Canadian diplomats—perhaps mischievously—arranged for a meeting between Fujimori and international human rights advocates. Scheduled to be brief, this rare opportunity went long because Fujimori was clearly enjoying himself. Human rights advocates challenged his record of deaths, disappearances, torture, and impunity for the armed forces, but, again and again, Fujimori defended himself by pointing to the decline in deaths, disappearances, and torture. His manner of thinking was that of a problem-solving technician—or, in his case, agronomist. He did not think as a lawyer or judge would, in terms of process or accountability. One question flummoxed him: "What mechanisms of accountability prevent the abuse of power?" To this he had no answer.
10. Max Weber said that "he who lets himself in for politics, that is, for power and force as means, contracts with diabolical powers." The politician "works with the striving for power as an unavoidable means. Therefore, 'power instinct,' as is usually said, belongs indeed to his normal qualities" (1958: 116).
11. Fujimori suggested in an interview that Yeltsin would be better off by shutting down parliament: "Boris Yeltsin himself has said so, and the big setbacks he has had in applying his structural reform arise precisely from the effort he must divert to his relations with that Congress" (quoted in Long 1993: online). A few months later, in September 1993, Yeltsin declared the Congress of People's Deputies "dissolved," a move that was rejected by leaders of the parliament as a coup. This precipitated an armed standoff that ended when the army stormed the legislature on October 4 and quashed the resistance.
12. In May 1993, Jorge Serrano, president of Guatemala, suspended the constitution, dissolved Congress and the Supreme and Constitutional Courts, and began to run by decree, promising new elections within sixty days. The move was roundly condemned and Serrano fled the country (Cameron 1998; Levitt 2006).
13. We use the language of the Inter-American Democratic Charter, which was designed to prevent similar events from occurring elsewhere. The charter refers to the "unconstitutional interruption of the democratic order or an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order" (art. 19, [http://www.oas.org/OASpage/eng/Documents/Democractic\\_Charter.htm](http://www.oas.org/OASpage/eng/Documents/Democractic_Charter.htm)).

14. Chávez's great-grandfather fought next to Ezequiel Zamora during the federal war, a nineteenth-century civil conflict. Although Chávez's mother considered her grandfather a murderer, Chávez insisted he was a guerrilla fighter.

15. See Chávez's statement here: <https://youtu.be/iKcoFPsoKLU>.

16. We are grateful to Michael McCarthy for this formulation.

17. Coppedge's thesis was plagiarized by Hernando de Soto when he wrote the speech given by Fujimori in the Organization of American States in which he attacked Peru's political system as a "partyarchy," so that he did not have to seem apologetic when he proposed the Democratic Constituent Congress. See Kenney 1996.

18. Chávez turned the "meritocratic ideal" of a firm run strictly on business principles against itself, arguing for the use of petroleum resources for statist ends. See Wiseman and Béland 2010.

19. It was also attempted unsuccessfully in Honduras in 2009. See Cameron and Tockman 2012.

20. This sketch draws on Ortiz de Zárate 2020; *El Universo* 2007; Rivera 2016; *El País* 2018; Jaramillo-Jassir 2008; *Reuters* 2008; and not-for-attribution conversations with one of Correa's early associates.

21. Ecuador during this period is best characterized as a hybrid regime (Conaghan 2019).

22. The sketch of Morales draws on Dunkerley 2007; Kohl 2010; Harten 2011.

23. *The Guardian* 2006: 1.

24. See *Semana* 2002; Posada-Carbó 2011; Ortiz de Zárate 2019; CNN 2019.

25. *Semana* 2002.

26. Bushnell 2003: 86–94.

27. CNN 2019.

28. As discussed in the next chapter, since 2000, civil society coups have occurred in Ecuador (2000), Venezuela (2002), and Bolivia (2019). Beyond the Andes, there have been coups in Haiti (2004) and Honduras (2009).

29. Most recently, Donald Trump (see Somer and McCoy 2019).

30. Data available here: <https://www.latinobarometro.org/latOnline.jsp>.

31. See <https://www.latinobarometro.org/latOnline.jsp>.

32. The Organization of American States was the result of a series of Inter-American Conferences dating as far back as 1889. In 1948, during the Bogotá Conference, the member states adopted the OAS Charter, the Inter-American Treaty on Pacific Settlement of Controversies and the Inter American Declaration of Human Rights. The Democratic Charter was an initiative of the Peruvian government after the Fujimori regime collapsed, and it was designed to prevent similar self-coups from occurring in the future.

33. See Inter-American Democratic Charter, chap. 4, arts. 17–22.

34. CELAC was created in 2011 with a treaty signed in Caracas, Venezuela. The Union of South American Nations (UNASUR) has also sought to mediate democratic crises since 2012. Besides these two regional organizations, Progressive International—an international network of left-leaning politicians—has proposed the creation of parallel electoral observatory to assess OAS electoral missions and interventions (Adler and Long 2021; available here: <https://www.theguardian.com/commentisfree/2021/nov/15/organization-of-american-states-democracy-observatory>).

# 2

## Political Regimes: Components, Crises, and Change

*Maxwell A. Cameron*

CONCEPTS ARE NEITHER TRUE NOR FALSE, ONLY MORE OR LESS USEFUL. There is no single, always fit-for-purpose definition of democracy; no set of descriptive terms that invariably corresponds to the multifarious and ever-changing phenomena that fall under the rubric of democratic practices and institutions. Some scholars find this depressing while others welcome democracy's "essentially contested" nature.<sup>1</sup> My view is that the concept of democracy needs to be adjusted to the matter at hand and the purposes of the research. The critical challenge is not to get the definition right, abstractly, and thus to settle for good the meaning of democracy, but to form concepts that are useful for the purposes of analysis. The challenge, for our purposes, is to craft a definition of democracy that is neither too narrow nor too broad. Put slightly differently, democracy ought not to be defined so minimally that key properties of interest are lost nor so broadly as to lose powers of discrimination. The right balance depends on the aim of the investigation. A common misconception is that minimalist definitions are, *ipso facto*, more value neutral.

Such a misconception can—but need not—occur when we use the concept "polyarchy." Polyarchy is an important and useful concept, one that may be embraced by scholars not because it is less value-laden than the term democracy but because it is more precise. It has the advantage of being realistic and can be easily disaggregated (O'Donnell 2007: 8). In this book we will use the idea of polyarchy as a basic building block for our analysis of democratic regimes. We do not embrace polyarchy because we presume that it sheds the normative baggage associated with the word democracy. Every concept is formed as a result of decisions based on criteria of inclusion and

exclusion, and each of these decisions entails value judgments—decisions about what is important to consider for the purposes of analysis.

Whether a concept that is useful in one context is useful in another—whether it travels—is an empirical question. To take the example of polyarchy again, an explicit purpose of the development of the concept was to eliminate reference to legal and constitutional features of political systems because behaviorists sought to differentiate their ideas from the “old institutionalism” (Rhodes 2008). The desire to abstract from these features of the political system was motivated by the effort of some political scientists to attain what they felt was greater scientific rigor. The utility of this move can be assessed in terms of the fruitfulness of the research program with regard to specific research objectives. But the fact that democracy can be defined in terms that abstract from law and constitutionalism in one setting does not mean that the referent of the concept has an independent existence separate from those things that have been excluded from it. Indeed, the very minimalist electoral features of a political system that are brought into relief by the concept polyarchy depend for their functioning in important ways on constitutional arrangements and the rule of law, as well as other features of the social and political context, as was demonstrated by O’Donnell (2001, 2010). The concept of polyarchy—democracy shorn of constitutional and legal-normative baggage—may be useful for explaining outcomes in situations in which certain legal and constitutional features of the political system are well established and can be taken for granted for the purpose of analysis; but in other contexts, awareness of the very things excluded by polyarchy may be absolutely vital to understanding the very same outcomes. No one theory or concept will necessarily do justice to all cases—sensitivity to context matters. For our purposes, it will be necessary to reintroduce legal and constitutional dimensions of democracy along with the thorny interpretive issues that entails.

A researcher should not expect more precision than her subject matter admits. This was a point Aristotle (1999: 5) made when he observed that politics demands the kind of knowledge that is involved in action, and such knowledge comes from practice and experience. Political activity rarely conforms to lawlike regularities because it involves purposive agents with a capacity for practical reason. Contemporary social scientists generally acknowledge a tension between nomothetic and idiographic ways of knowing, but the distinction barely scratches the surface of the issue. While some scholars may wish to understand behavioral regularities that appear to obey causal laws, our subjects are continuously engaged in practices shaped by their own theories, beliefs, values, and judgments. This places the social scientist, unlike most natural scientists, in the complicated position of being both observers and participants in social processes—both are caught up in the same movements of social life (Gadamer 1975: 529). Certain limited

aspects of human behavior can be grasped without much reference to the values and beliefs of human subjects, especially when the status quo appears to provide a sense of permanence to human affairs, but much of what interests us in the social world involves the ways in which human agents form habits, beliefs, practices, and values. This demands a kind of sympathetic understanding that eludes the observer who subscribes to the false objectivism of positivist value-neutrality.

The distinction between normative and empirical approaches to democracy should not be used to bolster a false sense of objectivity among scholars seeking to abstract from the messy complexity of a field of study in which the subjects are agents with goals and intentions. For example, abstract utilitarian models based on rational choice theories (game theory, public choice, and, generally, formal models based on assumptions of individual utility maximization) can capture at best a very narrow slice of the reality that engages our attention. Rationalist models are of interest only insofar as they offer relevant insights into strategic thinking. We will have occasion to describe events and actions that are motivated by instrumental reasons and strategic calculations, but we see no prospect of building a whole theory of democracy on such foundations. Instead, we start with the assumption that political agents are capable of practical reason and moral judgment with respect to their own actions and the practices and institutions in which their activities purposefully unfold.

### **Polyarchy: A First Approximation**

The term polyarchy, coined by Robert Dahl (1971: 1-9), denotes an institutional arrangement in which the people can formulate and express their preferences and have them weighted equally by government officials. Such an arrangement guarantees electoral rights (the right to vote, and to compete for and hold public office, in free and fair elections) and concomitant freedoms (including expression, association, and access to alternative sources of information). The degree of democratization of a political system is reflected in whether these guarantees enable contestation (opposition and competition for office) and participation (inclusion of all or most citizens). Polyarchy is useful and realistic, in the sense that it provides a detailed description of actually existing democracies, and it travels well; but taken on its own, it achieves minimalism at the expense of leaving unspecified the legal, constitutional, and citizenship features of the political regime that upholds and guarantees these rights and freedoms. This is not a criticism of the concept, which, to repeat, is neither true nor false but only more or less useful. To be sure, the elimination of explicit mention of legal and constitutional features of a democratic political system was motivated

by a positivist misconception—that “empirical” democracy could be separated from “normative” considerations.

Polyarchy is a type of political regime. Regimes are the “ensemble of patterns, explicit or not, that determines the forms and channels of access to principal governmental positions, the characteristics of the actors who are admitted and excluded from such access, and the resources [and] strategies that they can use to gain access” (O’Donnell 1999: 141). Examples include democracies (where political power is won by means of free and fair multi-party competitive elections in which government and opposition rotate in office) and authoritarian regimes (in which a small group of people hold power by means of coercion or manipulation or other nonelectoral means). There are many hybrid systems between the two ideal types, which has given way to a proliferation of “democracies with adjectives” (Collier and Levitsky 1997) as well as authoritarian regimes with adjectives (e.g. competitive and electoral authoritarianism [Levitsky and Way 2002; Schedler 2013]). Regimes are also a locus of institutional norms of behavior between different actors. Regimes determine mechanisms of accountability and voice—that is, who has access to, and influence over, decisionmakers. They delineate membership in the political system, including the rights and duties of citizens. In democratic regimes, the electoral and party systems strongly influence the type of competition and cooperation that occurs among parties. The electoral system refers to rules determined how seats are allocated on the basis of votes, how ballots are structured, how districts are determined, and how elections organized. The party system refers to the number of parties, ideological cleavages, and policy positions of the parties. These systems influence, among other things, patterns of partisanship and political polarization, as well as the stability of government.

The concept of the state is broader than regime. Max Weber defined states in terms of relations of domination or, more concretely, as political organizations that monopolize the legitimate use of coercion in a given territory. They encompass the public sector as a whole, including the government, the legislature, the courts, and the bureaucracy. The bureaucracy includes all civil service professionals who hold positions of authority in the public sector. It also includes regulatory bodies and crown corporations (state owned enterprises), the public healthcare system (primary care, hospitals, labs, and mental health facilities), the public school system (primary and secondary schools), as well as independent officers of parliament such as human rights ombudsmen, budgetary offices, and other watchdogs. Courts and the security services—military, police, intelligence agencies—are an essential part of the state. Typically, states are given their formal structure by constitutions that define features of the political regime—for example, the distribution of roles and offices within the state, including the fusion or separation of the branches of govern-

ment and levels of government, as in federal systems. Federal systems are typically constitutions in which there is a separation of branches of government at the subnational level (Cameron and Falleti 2005). Another distinction among constitutions is between presidential (where the executive and legislature are separately elected and for limited terms) and parliamentary systems (in which government is selected by the legislature and governs subject to its confidence).

Governments are made up of the incumbents of public office who are responsible for political decision-making backed by the coercive power of the state. This “political” level, in the sense of partisan politics, is organized by members of political parties: legislators who are members of the governing coalition or party, ministers of state, executive officers of government, political appointees, and other officials who change in accordance with electoral turnover or changes in the governing party. Governments control civil service staff organized in ministries and departments (e.g. ministers of health who oversee the healthcare system, ministers of education who oversee the management of schools). Governments are the locus of intersection of politicians and bureaucrats. Typically, politicians and their appointees will directly occupy certain senior posts in government, while career or professional civil servants will staff most of the bureaucracy. Governments have a comparative advantage in the provision of public goods (goods, such as security or healthcare, that cannot be provided in a decentralized manner but from which it is impossible to exclude noncontributors, and thus are prone to free riding), achieving collective action, and in the specification and enforcement of rules such as property rights. In democratic regimes, government policies are typically responsive to public opinion and organized pressure groups in civil society.

## Democracy, Liberalism, and Republicanism

Guillermo O’Donnell distinguished three schools of thought relevant to democratic theory: democracy, liberalism, and republicanism. Although the boundaries between these schools are porous and fuzzy, they are all present in diverse ways in the practices and institutions of contemporary democracies. O’Donnell (2007: 52, emphasis in original) made the following distinctions: “The *democratic* component entails, classically, the idea of a sovereign *demos* that rules itself by means of the active and formally equal participation of its citizens. By the *liberal* component that has been injected into modern polyarchies I mean, basically, the idea that there are some rights that should not be encroached upon by any power, including the state. By the *republican* component I mean, basically, the idea that the discharge of public duties is an ennobling activity that demands careful subjection to the

law and devoted service to the public interest, even at the expense of sacrificing the private interest of the officials.”

Liberalism approaches politics defensively and emphasizes the primacy of the private sphere; republicanism, by contrast, embraces politics and values the public sphere over the private. According to O’Donnell, democracy often disregards these distinctions: the *demos* has the “full right to decide on whatever issue it deems appropriate.” It is grounded in the idea of popular sovereignty—it is the people who decide. A central objective of recent democratic theory has been to establish an internal connection between democracy and law—a connection deliberately omitted in the original formulation of the concept of polyarchy. Habermas, in particular, has sketched a conception of a “deliberative democracy,” providing principles of the constitutional state that, in his view, supersede the liberal and republican traditions. O’Donnell, however, has shown how the evolution and historical sequences of the development of rights and freedoms in the Latin American has differed from Europe and North America, with important implications for the characteristics of democracy—specifically, the relative weakness of its liberal and republican features. This section reviews Habermas’s argument while the next considers O’Donnell’s response.

According to Habermas, liberals view society as a market-based network of private transactions. Politics involves the translation of these private transactions into public goals by means of impartial governmental apparatuses. The idea that the state is impartial is critical to liberal thought. In this view, the democratic state treats all citizens as equals, and assumes they are capable of acting autonomously. It does not side with one substantive ethical project over another. Moreover, consent is the basis of obligation—nobody should be forced to act against their will, except in order to preserve the equal rights and liberties of other citizens (the subordinate clause here marks the distinction between liberal and libertine).

The liberal view contrasts with the republican view of politics. In this view, politics reflects the ethical life of a society, the way members recognize one another as citizens understood as free and equal consociates under law. Rights are not abstract and universalistic but rather the expression of the form of life of the community—and a condition of self-government. An orientation to the good of the community supplements market and administrative power as a source of integration: “this horizontal political will formation aimed at mutual understanding or communicatively achieved consensus is even supposed to enjoy priority, both in a genetic and a normative sense” (Habermas 1994: 1–2). The “praxis of civic self-determination” comes before public administration and markets and thus the public sphere is not only strategically significant it is one of the primary features of democratic life. Indeed, liberty, in the republican view, is not merely freedom of the will of one from the interference of others but

a form of life, ingrained in the character of citizens, that is as free as possible from arbitrary domination.

For liberals, rights provide protection for their bearers as they pursue their private activities within the law; they also guarantee protection for individuals in their political activities in an analogous manner. They are conceived negatively, as protections against infringements by others. For this reason, liberal theory tends to be silent on the subtler ways that people may be unfree due to forces that do not involve direct interference: like poverty and inequality, violence hidden from public view because it occurs in the domestic sphere, manipulation of public opinion by private media, or the lack of recognition of Indigenous customary practices. The republican view sees political rights as positive liberties: “They guarantee not freedom from external compulsion but the possibility of participation in a common praxis, through the exercise of which citizens can first make themselves into what they want to be—politically autonomous authors of a community of free and equal persons” (Habermas 1994: 2). Authority is created through the praxis of self-government, and law, along with subjective rights, is grounded, not in abstract reason, but in concrete ways of life and associated mutual understandings. Such a view demands that the state educate citizens so that they have the necessary skills, knowledge, and character to contribute to the life of the polis. Such a state cannot be neutral with respect to the values and aspirations of the community, in all its diversity.

Habermas (1994: 3) acknowledges that the republican school of thought preserves democracy’s “original meaning” as the “institutionalization of a public use of reason jointly exercised by autonomous citizens.” It is a view grounded in the logic of dialogue not the market. Yet he objects to the “ethical constriction of political discourse” (1994: 3), the narrowing of the meaning of democracy to a particular shared form of life or collective identity. Politics is not only about what the members of a community wish to do and be. This position, Habermas claims, is too dependent on the virtues of citizens and their commitment to the common good. It requires settled ethical convictions rather than the force of better arguments in deliberative processes under procedures allowing for the fair play of ideas.

Habermas advocates a deliberative concept of democracy that does not demand a concrete, substantive ethical community, for such a precondition would beg the question of how citizens might become oriented to the common good in the first place. Moreover, law involves more than shared values. On matters of justice citizens must appeal to universally valid moral tenets: “Moral questions in the narrow sense of the Kantian tradition are questions of justice. The question having priority in legislative politics concerns how a matter can be regulated in the equal interest of all. The making of norms is primarily a justice issue and is gauged by principles that state what is equally good for all. And unlike ethical questions, questions of

justice are not related from the outset to a specific collective and its form of life. The politically enacted law of a concrete legal community must, if it is to be legitimate, at least be compatible with moral tenets that claim universal validity going beyond the legal community” (Habermas 1994: 5). Habermas appeals to the priority of universally valid claims to justice, outside the legal community; moreover, he suggests that such claims are what give legislation legitimacy. He embeds the Kantian tradition, with its emphasis on moral autonomy and reason, in the heart of a discourse theory of democracy by way of its connection to the law and legislation.

### Latin America’s Distinctive Sequence

O’Donnell (2007) argued that Habermas’s account assumes a specific sequence of historical developments which limits its relevance to processes of democratization in countries outside the global northwest quadrant of the world. The sequence, in stylized and schematic terms, involves the codification of the subjective rights of bourgeois individuals in civil and commercial law during the expansion of capitalism and the modern state. This was followed by the generalized juridification of society led to the *Rechtsstaat* and the legal regulation of executive and administrative authority. These processes occurred prior to the nineteenth-century expansion of the suffrage to adult males, and were followed by the development of egalitarian and universalistic welfare states in the twentieth century. This sequence contrasts markedly with the historical development of Latin America’s highly inegalitarian societies, where welfare provisions are rudimentary, and often provided through clientelistic mechanisms. The state is neopatrimonial, meaning that the boundaries between public and private are not well established, various forms of corruption and encroachment occur, and basic civil liberties are unevenly protected. Nevertheless, the political rights and freedoms associated with polyarchy were extended early—typically in the first decades of the twentieth century.

The Latin American historical sequence has profound implications for the functioning of democracy. The fact that political rights were extended before civil rights were secure created the opportunities for the proliferation of clientelism and the capture and colonization of the state by private interests. The ineffectiveness of the rule of law—which O’Donnell (2007: 118–123) found reflected in flaws in existing law, uneven application of the law, improper relations between vulnerable citizens and the bureaucracy, lack of access to due process and sheer lawlessness—resulted in “low intensity citizenship” that vitiated democratic regimes. Violations of liberal rights and freedoms were endemic in Latin America, making it necessary to recognize the existence of such “monsters” as polyarchies without the rule of law. Such

regimes were illiberal polyarchies, not authoritarian regimes. Illiberal polyarchies may also take the form of “delegative democracies” or polyarchies without horizontal accountability. Despite the development of the electoral components of democratic regimes—which O’Donnell (2007: 50) called “vertical accountability”—Latin American electoral regimes have tended to exhibit deficits of horizontal accountability (both balancing and mandated).

Another implication of the Latin American historical sequence was the persistence of oligarchic modes of rule: the tendency, contrary to polyarchy, to weigh the preferences of those with great wealth more than citizens as equals (Foweraker 2018; Cameron 2021b). Oligarchic tendencies are present in all polyarchies to some degree, but they are mitigated by measures to promote an egalitarian distribution of wealth and mechanisms of representation and participation open to all. When these mechanisms are weakened, however, especially in grossly inegalitarian societies, representative governments can become oligarchies—government of the few on behalf of the wealthy. Critically, liberalism can provide the political formula best able to serve oligarchic government, and in Latin American liberalism has historically been associated with oligarchy. Thus, when we speak of liberalism in the Latin American context, it is important to distinguish its oligarchic and democratic variants.

Finally, the *unrulo* of law in Latin America means that the reach of justice is uneven and judicial institutions are mistrusted. Court stacking or purging often meet public indifference because these institutions provide little of guarantee justice to all. This is not to deny one of the great accomplishments of the transitions to democracy: to establish the importance of human rights. Nevertheless, the legal order has a limited capacity to resolve conflicts in the interest of social integration. Conflicts cannot be resolved by appeals to the fairness of institutions when even formal equality has not been achieved. O’Donnell (2007: 54) observed that “liberalism is profoundly counterintuitive: only in a small part of the world, influenced by the traditions of feudalism, conciliarism, and natural rights and shocked by the horrors of religious wars, was it persuasively argued that there were right that should not be infringed upon by any public or private actor.” The idea that rights trump the good was not generally accepted, and often very explicitly rejected in practice, especially when conflicts involved existential threats to particular forms of life. A powerful articulation of the idea of a threatened life form that has motivated a movement for democratic change is *buen vivir*—the Indigenous principle of living well and harmony with nature.

*Buen vivir* has been adopted into the constitutions of Ecuador and Bolivia, which can be seen as a violation of the liberal principle that constitutions should establish procedures but not embrace substantive conceptions of the good. But this principle detaches democracy from resources it needs to achieve social integration. These resources are to be found precisely in the

cultural and societal traditions that Habermas (1994: 5) sees as a problem for republican-communitarian thought insofar as they generate pluralism: “Under conditions of religious, or in any way cultural and societal pluralism, politically relevant goals are often selected by interests and value orientations that are by no means constitutive for the identity of the community at large, hence for the whole of an intersubjectively shared form of life. The political interests and values that stand in conflict with each other without prospects of consensus are in need of a balancing that cannot be achieved through ethical discourses—even if the outcomes of bargaining processes are subject to the proviso that they must not violate a culture’s agreed-upon basic values.” Habermas is skeptical that ethical discourse can be the source of democratic law. Decisions about collective goals—what he calls collective will formation—should not be limited, in his view, to a pre-existing and intersubjectively shared form of life, nor does he want the autonomous exploration of goals to be fettered by the weight of tradition and authority, for this would limit its emancipatory potential. For republicans, on the other hand, collective wills emerge not from rationalized procedures but from practical experience. Practices, including the practices of self-government, generate common goods. The balancing of interests and values is achieved precisely through processes of dialogue that challenge or reinforce patterns of authority, tradition, and law. Agreement is generally the product of the working out of differences, whether by bargaining or power struggles culminating in temporary and reversible victories. The ongoing application of principles of justice demands the continuous unfolding and working out of its implications, and this occurs not at the level of abstract principles alone but in practice.

The construction of shared worlds—what Hans-Georg Gadamer called the “fusion of horizons”—is only ever the product of partially successful efforts to negotiate particular differences. Surrender to authority, tradition—or worse, irrationalism—does not follow from this viewpoint. On the contrary, it is by working through the problems of a particular tradition or culture that understanding emerges, thereby enables traditions and cultures to learn from one another. Habermas’s own attempt to reconcile the advantages and liberal and republican traditions of democratic theory with his own discourse theory is a model of just such a process.

## **Neoliberalism**

It has been argued that liberal democracy provides the “depoliticized framework that nurtures neoliberalism, while providing it with a cloak of legitimacy” (Vázquez-Arroyo 2008); neoliberalism provides a market-based framework that inhibits republican balancing of pluralistic differences. The

liberal argument that there are “rights that should not be encroached upon by any power, including the state” (O’Donnell 2007: 52) not only places rights above the good (making it hard to contest private rights even when they undermine the public good), but by emphasizing the importance of the private sphere, justifies demarcating rights that uphold fundamental property relations—placing them beyond the reach of any exercises of constituent power. This is particularly true of neoliberal rules negotiated through trade treaties or agreements, which attain the rank of constitutions as basic laws that are immune to change by democratic means—and, unlike domestic constitutions, are backed by supranational institutions and powerful nations. Neoliberal arrangements weaken democracy by locking-in policies and laws that contribute to inequality, make pro-egalitarian policies more difficult to enact, and narrow the policy space considered permissible for democratic discussion. Neoliberal policies are designed to limit state intervention in the economy, and, more generally, confine state power to the exercise of negative prohibitions, exclusions, obstructions, and “un-dos” (that is, “undoing” certain rules and regulations). The state derives its legitimacy from the technocratic management of the society—not to accomplish useful social ends, but to steer social activities by means of public administration and market-based rules and incentives, the goal of which is, above all, the competitiveness of individuals and firms.

The ethos of neoliberalism can also stand in tension with the republican virtues that citizens need to sustain democracy understood as more than a framework of subjective rights, but as a form of life in the polis. It encourages the pursuit of private interest over public service, celebrates consumerism as fulfillment, equates the value of work with its remuneration, promotes myths of meritocracy even as it blocks social mobility, and treats politics as little more than glorified rent-seeking. Most importantly, neoliberalism undermines the common good. “Governing well,” as Michael Sandel writes, “requires practical wisdom and civic virtue—an ability to deliberate about the common good and to pursue it effectively” (2020: 99). But governing well is impossible if citizens cannot find the common good, and, in highly diverse, pluralistic, multicultural societies, the common good often involves navigating differences and learn how to live together cooperatively. In the context of societies with the deep diversity of the Andean region, finding the common good will not occur spontaneously through market mechanisms under the aegis of an impartial state, nor can it be achieved through the imposition of a guiding corporatist or populist ideology by a tutelary state. It can only be achieved through active citizenship in a strong, constitutional democracy. The concept of democracy we propose has polyarchy at its core, but embeds the electoral components of the polyarchic regime, along with the surrounding conditions that uphold liberal rights and freedoms, within the framework of a democratic rule of law-based state. Such a

state cannot be the neoliberal market-based state, nor the impartial night-watchman state of classical liberalism; it is, instead a social state that takes the cultivation of citizenship as its primary objective. It is in relation to this state that we assess democratic practices and institutions.

### **Polyarchy: A Second Look**

A major goal of this book is to reframe the debate on the contemporary crises of democracy in terms of balancing the democratic, liberal, and republican elements of democratic political regimes rather than in the conventional terms of liberal democracy (as the only truly democratic regime) versus various forms of authoritarianism.<sup>2</sup> It is useful to place the concept of polyarchy at the center of our conception of a democratic regime because polyarchy enables institutionalized alternation in power by means of public participation and loyal opposition within an electoral system. I have argued that democracy is about more than votes and elections, but that certainly does not mean that voting and elections are not critical to democracy. At the core of any modern democratic system are its electoral components. They include, following Dahl, the following elements: (1) officials acquire the right to hold public office by means of periodic elections, (2) electoral processes are non-fraudulent, (3) all qualified citizens have the right to vote, and (4) all citizens are eligible to run for office (Dahl 1971; Dahl 1989: 120; O'Donnell 2010: 17–18). Table 2.1 breaks down each of these components.

Elections foster institutionalized agreement on the legitimacy of alternation between government and opposition in accordance with established rules. The aim of electoral contestation is to establish the winner's authority to rule. For this agreement to be as universal as possible, all citizens must have the right to vote and run for office in free and fair elections, and whoever is elected must be able to hold public office. Those who win elections are empowered to hold office and make binding decisions, provided they operate within the terms of their mandates (O'Donnell 2010: 18–19). Any indication of systematic fraud undermines the decisiveness of elections, and the practice of denouncing fraud, regardless of evidence, may bespeak a precarious institutionalization of opposition. The integrity and independence of electoral institutions is a vital guarantor that voting results can be trusted.

Elections enable the exercise of citizenship rights. By voting, citizens, in principle, freely express their intentions. These are valid, however, only if expressed by agents who have “the title to be recognized, and legally backed, as the holder of rights” (O'Donnell 2010: 1). Moreover, each vote must be weighted equally and counted honestly. Any misrepresentation of the vote, denial of the opportunity to vote or run for office, or fraud in counting ballots

**Table 2.1 Components of Democratic Systems**

Electoral components	Officials acquire the right to hold public office by means of periodic elections. Electoral processes are nonfraudulent. All qualified citizens have the right to vote. All eligible citizens can run for office.
Concomitant conditions and liberal rights and freedoms	All citizens enjoy freedoms of expression. Freedom of association and assembly. Access to alternative sources of information, and other rights and freedoms.
Constitutionalism and the rule of law, and republican guarantees	The state is organized to ensure horizontal accountability. The rule of law. Civilians have supremacy over the armed forces (which are nondeliberative and obedient).
Citizenship	Fundamental rights and freedoms and human capabilities necessary for active citizenship are upheld.
Refinements	Elected officials are not subjected to control by nonelected officials, whether through “authoritarian enclaves” in the state or overt military interference in civilian affairs. Nonelected officials or pressure groups will not arbitrarily terminate the mandate of elected officials. Equitable playing field for the opposition with respect to access to justice, the media, and state resources.

violates a political right. Likewise, as long as ballots are freely cast by eligible voters and counted equally, the voter (or candidate) may dislike the result but cannot dispute its validity. Even the most narrowly construed core components of electoral democracy assume basic rights and freedoms, which provides potential leverage for the expansion of citizenship rights.

The electoral components of the political regime constitute its core democratic features, but even in this core we see elements of liberalism and republicanism, as well as departures from the original meaning of democracy. The liberal features include the rights associated with voting and running for office. The purpose of elections is representation—a neorepublican idea. I say “neorepublican” because the original idea of democracy was that it involved the direct participation of citizens in decision-making, rather than through their representatives, and elections were considered aristocratic rather than democratic institutions because they reproduced inequalities (see Manin 1997).

The electoral components of democratic regimes are insufficient to ensure the proper functioning of democracy. For an electoral regime to enable institutionalized alternation, certain conditions must be met that go beyond the institutions of an electoral regime, narrowly defined—that is, beyond voting and competing for office. These give the democratic regime

its distinctively liberal dimension, but even here we must be careful because rights and freedoms can be supplied with liberal or republican justifications (see Skinner 2021). Nevertheless, to return to Table 2.1, these “concomitant conditions” or “surrounding rights and freedoms” as O’Donnell (2010: 20–24) called them, include, at a minimum: (5) freedom of expression, (6) freedom of association and assembly, and (7) access to alternative sources of information. Together the electoral components of the regime and their concomitant conditions constitute Dahl’s “polyarchy” (1971: 2–3).

Surrounding rights and freedoms enable citizens to form collective preferences democratically (Warren 2017: 44). Freedom of expression is necessary to ensure that the public can come to judgment on the choices they face. Likewise, freedom of association, which includes the right to form or join voluntary associations, including parties, and to assemble peacefully, is necessary for meaningful opposition. Voters cannot be expected to choose their representatives wisely unless they have access to reliable information that reflects a wide range of relevant facts and opinions. Surrounding rights and freedoms are a condition of the liberal idea that individuals can figure out what their own interests are—that they are autonomous and rational—and they enable individuals to resist forms of authority they have not authorized. In other words, they prevent arbitrary coercion and enable public will formation. But these rights and freedoms can be supplied with a republican defense as well, because they are necessary for self-government and arise from social practices that evolve over time.

The specific internal and external boundaries and content of these conditions cannot be stipulated *a priori* (O’Donnell 2010: 18–20). For example, the right to free speech or association must always be balanced against other rights and freedoms, and there are many ways of organizing media systems to ensure access to alternative sources of information. The external boundaries of these rights and freedoms (what specific rights and freedoms are necessary to ensure elections are free and fair in a particular context) and their internal content (what are acceptable restrictions, how vigorously they must be guaranteed) are “theoretically undecidable” (O’Donnell 2010: 22) and politically contested. One of the major areas of contestation is precisely the media. Liberal approaches tend to focus heavily on whether governments control the state media and whether they censor or seek to unduly influence private media; they are less concerned with the ways in which private media, often controlled by large conglomerates, shape public opinion through unaccountable mechanisms of private power.

Concomitant rights and freedoms may become worthless parchment without enforcement by public authorities and compliance by citizens. To ensure democratic alternation is fully institutionalized, it must be backed by a law-abiding and law-enforcing state (*estado de derecho*). This is the dimension of the democratic regime that republican theorists often empha-

size because of its connection to law and the separation of powers—ancient ideas that can be traced to Greece and Rome (Cameron 2013). The presence of a republican constitution is not a definitional feature of democracy, but it provides democracy’s organizational guarantee. It is the republican answer to the recognition that the state is an instrument of domination. Liberal theories of constitutions and the rule of law tend to place greater emphasis on negative rights, judicial review, and limited government. Robust constitutionalism facilitates the practice of democracy. This fact is essential to understanding the poor quality of democracy in many Latin American states (as well as its erosion in some exemplary democracies).<sup>3</sup>

The state must be “legally empowered—and factually willing and able—to take actions ranging from routine oversight to criminal sanctions or impeachment in relation to possibly unlawful actions or omissions by other agents or agencies of the state” (O’Donnell 1998: 117). It is the absence of such mechanisms that gives rise to delegative forms of rule even though elections may be free and fair. Whenever rulers discover they can abuse power they become motivated to seek impunity, which violates the basic legal principle that nobody is above the law (*de legibus solutus*). Wherever impunity entrenches itself, the corruption of public offices follows. A major source of impunity is the unregulated power of the armed forces. Civilian supremacy requires that the armed forces be non-deliberative and obedient. The long tradition of military interference in politics in Latin America, however, has created serious problems for democratic politics. Scholars have attended to this with a number of refinements make the concept of democracy more precise without altering its essential meaning.

Finally, for citizenship to be meaningful, fundamental rights and freedoms must be upheld and the state must guarantee that all eligible citizens are able to develop the capabilities necessary for active participation in the activities of self-government.

Three further refinements of polyarchy are worth noting (see Table 2.1). First, elected officials should not be subject to control by non-elected officials, whether by the presence of “authoritarian enclaves” in the state, or overt military interference in civilian affairs (Garretón 1989: 51–62). In principle, this addresses the issue of civilian supremacy. However, it is possible to have an obedient and non-deliberative military that is under civilian control but that nonetheless insists on certain spheres of influence within which its power is unregulated. Second, non-elected officials should not arbitrarily terminate the mandate of elected officials (Valenzuela 2004). Third, the claim that there should be an even playing field for the opposition with respect to access to justice, the media, state resources (Levitsky and Way 2002) is another welcome refinement, one that concerns surrounding rights and freedoms necessary for the proper functioning of the electoral components of the regime.

The first two refinements concern the problem of de facto powers. De facto powers are involved whenever there is obstruction of opposition or blockage in the alternation in power. The existence of de facto powers within a state—like civilian or military mafias that operate with impunity—is a definitional feature of authoritarianism.<sup>4</sup> It is a feature that tends to accompany the absence of surrounding conditions, together with corruption of the electoral regime. By making the electoral regime a mere formality, a small group can exercise power without alternation in office. Such despotic power is precisely what the constitutional separation of powers and the rule of law is designed to discourage (Cameron 2013).

Electoral authoritarian regimes lie in the grey zone in which electoral components of a political regime is compromised in a way that undermines the ability of elections to guarantee alternation in power and thus check despotic power. These systems are typically characterized by violations or abuses of the rights and freedoms necessary for the normal functioning of the electoral regime, as well as constitutional irregularities including excessive concentration of executive power. Such problems typically arise as an effect of the formation within the state of corrupt power elites who are unwilling to surrender office. The capacity of the electoral components of the regime to generate alternation in power is diminished, typically as a result of mistreatment of the opposition. Finally, nondemocracies lacking meaningful electoral regimes occur when the erosion of democratic features of a political regime reach the point at which alternation in power and normal opposition activities are impossible. De facto powers within the regime refuse to surrender office and are prepared to use repression and violations of fundamental rights and freedoms to prevent the opposition from taking power. These observations can be summarized in Table 2.2.

## Regime Crises and Change

Threats to democracy in the Andean region in recent decades have been almost invariably due to forces at work *within* the democratic process, rather than exogenous to it. It is increasingly rare for democracy to be brought to an abrupt end due to a violent military coup. The last time military officers attempted to depose a civilian government by force was in Venezuela in 1992.<sup>5</sup> The more pervasive and thus more worrisome trend in the region involves subtle processes of executive aggrandizement and encroachment on other branches of government that lead, over time, to the erosion of the rights and freedoms essential to the electoral components of the democratic regime, or even the elimination of free and fair elections, as well as basic constitutional guarantees necessary to sustain the rule of law and the separation of powers. This is why it is essential to include in our understanding

**Table 2.2 Components of Electoral Authoritarianism**

Electoral components	The state apparatus is controlled by a small group that does not depend on electoral legitimacy. Opponents are prevented from running for office and sharing power.
Concomitant conditions	Elections are fraudulent or uncompetitive. Opponents and dissidents are routinely repressed. Pluralism is limited (opposition may be tolerated but not allowed to win office or must operate in collusion with government).
Constitutionalism and the rule of law, and republican guarantees	Civil and political rights are systematically violated. Alternative sources of information are limited or prohibited. Legislative and judicial powers are subordinated to the executive branch. Decisionmaking is top-down and centralized. Armed forces, or internal factions, may play a deliberative role.
Citizenship	Fundamental rights and freedoms and human capabilities necessary for active citizenship are systematically violated.

of the democratic regime not only its electoral components but also its surrounding rights and freedoms as well as the constitutional order.

Forming a shared conceptual vocabulary is the first step toward theorizing these complex internal processes of democratic erosion or decay. In this book the term coup will be reserved for the violent and nonconstitutional overthrow of a government. Coups are sudden and irregular. In the language of the Organization of American States (OAS) and written after the fall of the Pinochet regime in Chile in 1990, coups involve the “sudden or irregular interruption of the democratic political institutional process or of the legitimate exercise of power by the democratically elected government” (OAS Resolution 1080). The immediate problem giving rise of coups is the involvement of the military in politics (see Table 2.3).

A military coup can be directed against a military regime, as occurred in Peru in 1975, when reformist military officers led by Juan Velasco Alvarado were removed by conservative officers around Francisco Morales Bermúdez, but we have no such cases in the current context. The military typically plays a leading role in coups but, in which case we refer to military coups, but in some cases, civilians may also play a role. For example, civilians may seek to create conditions that force the military to act against a civilian government. In this case, the term *civil society coup* is apt because it reminds us that coups do not always lead to military regimes: for example, the military may depose a civilian government due to pressures from civil society and install a civilian caretaker (often led by the vice president). In Ecuador, the civil

**Table 2.3 Regime Change Ideal Types: Coups**

Class of events	The “sudden or irregular interruption of the democratic political institutional process or of the legitimate exercise of power by the democratically elected government” (OAS Resolution 1080).
Root problem	Military intervention in politics.
Process	<i>Military coup</i> : the military uses force to overthrow a constitutionally established democratic government. <i>Civil society coup</i> : civilians create conditions for the military to play a role in the violent and non-constitutional overthrow of a civilian government.

society coup that deposed Mahuad in 2000 ended when Mahuad’s vice president, Gustavo Noboa, was sworn in with the backing of the armed forces. In Bolivia, the military contributed to the collapse of the government of Evo Morales in 2019 when it withdrew support from the President and suggested he resign in the context of civil strife over allegations of fraud in the election. The government that replaced Morales was a civilian one that convened new elections the following year.

Coups are different from *self-coups*, in which the executive temporarily or partially suspends the constitution, closes Congress, removes judges or otherwise muzzles the courts, and rules by decree (Cameron 1998). With the backing of the public and military, the president convenes elections to draft a new constitution which expands executive powers (such as re-election) and submits it to a referendum. The paradigmatic example is Peru in 1992 under Fujimori. A key distinction between coups and self-coups lies in their objectives: whereas the coup aims to overthrow a government, the self-coup aims to alter the regime. Indeed, some scholars argue that self-coups are not a subtype of coups (or “coups with adjectives”) but a different animal altogether—the label “incumbent takeover” has been proposed.<sup>6</sup> In this book, following Nancy Bermeo (2016), we use the term *executive aggrandizement*, or O’Donnell’s (2007: 63-67) term *encroachment*, to capture the expansion of executive power at the expense of the legislature, the judiciary, or other independent agencies of government. Executive aggrandizement or encroachment on other branches may involve abuses of rule by decree, and the enabling of the military to function as a deliberative—and hence potentially disobedient—body. These are processes that occur within a democratic regime but may lead to its demise. For our purposes the self-coup and the coup share key attributes: they are sudden, they involve the use of force, and they break constitutions.

Although there are similarities between coups and self-coups—especially in the sense that they both break constitutions—self-coups are more subtle threats to democracy because they arise endogenously from within the demo-

**Table 2.4 Regime Change Ideal Types: Self-Coups**

Class of events	The “unconstitutional interruption of the democratic order or an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order” (Inter-American Democratic Charter, art. 19).
Root problem	Executive aggrandizement with military backing.
Process	The executive temporarily or partially suspends the constitution, closes Congress, removes judges or otherwise muzzles the courts, and rules by decree. With the backing of the public and military, the president may convene elections to draft a new constitution to expand executive powers (such as reelection) which is submitted to a referendum.

cratic regime, and they succeed to the extent that they appeal to and sustain themselves by means of democratic elections, as described in Table 2.4. A decade after the Organization of American States adopted Resolution 1080, an initiative emerged from within the OAS, led by the post-Fujimori interim government of Peru, to capture these subtle threats: The Inter-American Democratic Charter. The charter, adopted in 2001, cast its net more broadly with the phrase: “unconstitutional interruption of the democratic order or an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order” (Article 19).

Even as the charter was being negotiated and adopted, Venezuela was experimenting with a yet more subtle form of executive aggrandizement. In this form of democratic backsliding a presidential candidate promises, if elected, to call a referendum to convene a constituent assembly to rewrite the constitution. Once elected, the president carries through on this promise and a new constitution is drafted that expands presidential powers, typically including reelection, and is approved in a referendum. Critical moments of executive aggrandizement through constitutional change occurred in Venezuela (1998–2000), Bolivia (2006–2009), and Ecuador (2007–2008). These were followed to some degree by further encroachments by the executive on other branches of power, leading in the case of Venezuela to the breakdown of the democratic regime or to its erosion, at least on some dimensions, as in Ecuador and Bolivia. The oxymoron constitutional coup can be used as short-hand to describe the slow-motion erosion of democracy through executive encroachment. In some cases independent branches of government are usurped and dominated by the executive leading to persistent constitutional violations and plebiscitary rule. The goal of constitutional reform is to “fix” the constitution (to adopt Corrales’s [2018] felicitous phrase)—that is, to undermine the alternation in power by making it harder for the opposition to win elections. In such cases the effects on

**Table 2.5 Regime Change Ideal Types:  
Executive Aggrandizement by Means of Constituent Assembly**


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Class of events	Seeks to attain goals similar to presidential self-coup while avoiding an “unconstitutional interruption of the democratic order or an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order” (Inter-American Democratic Charter, art. 19).
Root problem	Executive aggrandizement.
Process	A presidential candidate promises, if elected, to call a referendum to convene a constituent assembly to rewrite the constitution. Once elected, the president carries through on this promise and a new constitution is drafted by a constituent assembly that expands presidential powers, typically including reelection, and is approved in a referendum. Also called constituent presidentialism (Bernal 2014). In some cases independent branches of government are usurped and dominated by the executive leading to persistent constitutional violations and plebiscitary rule.

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democracy are likely to be similar to self-coups. In other cases, however, independent branches of government may, by and large, be respected by the executive and function, for the most part, normally after the new constitution is adopted (see Table 2.5).

Of course, not all constituent processes involve executive aggrandizement or encroachment. A notable example of the opposite—a constituent process that actually strengthened the separation of powers and reinforced legal restraints on executive power—is offered by Colombia in 1991. In this case, the constitution was replaced and a new one approved by more or less established constitutional procedures. After widespread protests in Chile in 2019–2020 led demands for constitutional reform, a process was undertaken in which the leaders of the major political parties agreed on the terms and conditions of a constituent assembly process to reform the constitution that provided guarantees against executive aggrandizement (see Table 2.6).

Constitutional crises can occur as the result, for example of the non-compliance of a major political actor that creates the possibility of an interruption or alteration in constitutional order, without the outcome necessarily resulting in executive aggrandizement, as in the case of Peru’s constitutional crisis in 2019–2020 (see Table 2.7).

In summary, coups and self-coups share in common the sudden violation of the constitution and involve the use of force, even though self-coups arise from processes internal to the democratic regime. The aim of the self-coup is to change the regime to perpetuate a government in office, whereas the goal of a coup is to change the government (and often the regime as well). In both cases, executive powers are likely to be

**Table 2.6 Regime Change Ideal Types: Constitutional Reform**

Class of events	Constitutional change within the democratic order.
Root problem	Societal or political demand for constitutional change.
Process	A process of constitution reform in which a constitution is modified or replaced by new one, and approved by more or less established constitutional procedures, without executive encroachment on other branches of government.

**Table 2.7 Regime Change Ideal Types: Constitutional Crisis**

Class of events	Possible constitutional change.
Root problem	Noncompliance with the constitution.
Process	Noncompliance of a major political actors creates the possibility of an interruption or alteration in constitutional order, without the outcome necessarily resulting in executive encroachment on other branches.

enhanced. There must be at least tacit military backing for a self-coup to work. Military involvement is not necessary in all cases of executive aggrandizement. Whereas both coups and self-coups involve breaking the constitutional order, and thus require the use of force, executive aggrandizement may rest on an appeal to the constitutional principle of popular sovereignty, although in practice this typically provides cover for the expansion of executive power.

Referendums—or, more precisely, plebiscites—are a key feature of both the self-coup and executive aggrandizement, but not in coups, and not necessarily in constitutional reform by constitutional means. In general, the immediate damage to the constitutional order should be greater as we move from executive aggrandizement, to self-coup, to coup. Over time, however, the effects on the constitutional order may depend as much on the forces that are unleashed by each process as much as their immediate impact. Only constitutional reform processes by means of established constitutional rules are unlikely to undermine democracy, and may even strengthen it (as in Colombia in 1991).

Key factors that determine the likelihood that a process of executive aggrandizement will damage democracy include the role of the military, whether the constituent assembly has legislative as well as constitution-making powers, relations between the government, the opposition, and the media, and whether leaders accept term limits. We will see that the process in Venezuela led to a military-backed authoritarian situation, while in Bolivia a civil society coup interrupted an unconstitutional bid for a third

term in office, leading to free and fair elections, and in Ecuador a process of executive encroachment was ended when the president accepted his term limits. We will also explore the ways in which constitutional reforms designed to expand executive powers, if entrenched, and place democracy in a straitjacket.

## Conclusion

Positivist approaches to democracy, including Dahl's early work on polyarchy, seek (inevitably unsuccessfully) to shed such normative baggage as constitutions and the legal structure of the state. But democracy and the constitutional and legal orders that sustain them are not easily separated, especially when the meaning of democracy itself is contested. The normative features of democracy tend to creep back into the literature in unacknowledged ways (as demonstrated by O'Donnell 2001). Moreover, the stripped-down concept of democracy turns out to be more appropriate in some contexts, like Europe and North America, only to the extent that constitutional issues tend to be more settled. In this book, polyarchy will provide a useful baseline for establishing the "red line" between democratic and nondemocratic regimes; other components can build upon that foundation. This process leads to the recognition of variation in democratic diversity and the quality of democracy and provides a better foundation for understanding regime strengths and defects.

By disaggregating the components of a democratic regime we can avoid the various pitfalls identified in the Introduction. The most central of these concerns the relationship between the changes needed to make democracy meaningful and the continuity demanded of a functioning constitutional order. The advancement of democratization cannot be a matter of the dogmatic defense of constituted institutions; it is not by attaching ourselves to any particular set of institutions and practices that we best serve the needs of democracy understood as self-rule by free and equal citizens; but nor can we simply ignore existing institutions as merely given facts that deserve no more consideration than the balance of political forces at any given moment. To imagine that somehow every exercise of constituent power, every attempt to transform institutions into something new is an advance toward justice and equality is to fall prey to an illusion of change. More often than not, as Machiavelli well understood, efforts to change institutions create opportunities for the abuse of power; yet change institutions we must, for institutions that do not evolve with changing conditions stagnate and become irrelevant.

## Notes

1. See the interview with Robert Dahl, “Normative Theory, Empirical Research, and Democracy,” in Munck and Snyder (2007: 145); Gallie (1955).

2. This section draws on Cameron 2018b.

3. The term *habitus* is a Latin translation of the Greek *hexis*, used by Aristotle (1999: 33) to refer to the habits and dispositions of citizens and rulers, which he believed could sustain or corrupt regimes. Interest in the concept has been renewed by the insightful work of Pierre Bourdieu (1990: 52–65).

4. See Juan Linz (2000: 159); O’Donnell (1999: 35–47).

5. Chávez attempted a coup in February and a second more violent coup attempt occurred in November that year. There have been coups and coup attempts since then—in Ecuador in 2000, Venezuela in 2002, and Honduras in 2009—but in these cases civilians rather than military officers were the primary instigators.

6. Marsteintredet and Malamud 2020; Svobik 2015.



# 3

## Venezuela: From Democracy to Authoritarianism

*Michael McCarthy*

UPON TAKING POWER, HUGO CHÁVEZ'S POLITICAL MOVEMENT TRANSFORMED the Venezuelan political system from democracy to authoritarianism—not suddenly, or by force, but mainly by exploiting the opportunities for the expansion of executive power within a defective democracy. Pursuing executive encroachment clothed as revolutionary refoundation, Hugo Chávez (1999–2013) contributed to both the *muerte lenta* (slow death) of democracy and the gradual construction of an authoritarian regime. Yet scholars and analysts alike commonly focus on Nicolás Maduro (2013–present), Chávez's successor, when explaining Venezuela's transition to authoritarian rule. Maduro certainly deserves his share of the blame. After opposition political parties won an historic congressional majority victory in the 2015 National Assembly elections, obtaining two-thirds of the seats in the legislature, Maduro tightened his grip on power. Maduro's response of military-backed autocratic corporatism extinguished any hope for rapid re-democratization and closed the windows on hope for National Assembly–led political liberalization. He did this by adding brutal repression, a new trademark attribute to *chavismo*'s authoritarianism. However, while it was Maduro who consolidated his own brand of authoritarian rule, hammering the last nails in the coffin of democratic governance, it was Chávez who made democracy's coffin.

Beyond the important objective of composing a more balanced and nuanced account of changes in Venezuela between 1999 and 2021, I place a spotlight on the similarities and differences between Chávez and Maduro for two additional analytical reasons. First, from Chávez to Maduro, the ruling party's governance methods became more exclusionary. By 2017, four years into Maduro's tenure, the governing party's progressively more

exclusionary methods had yielded a monopolistic system of party-state governance. Methods for restricting pluralism had begun to operate alongside soft and hard forms of coercion. Thus, although Maduro held power in an extremely fragile state structure, his grip on power was tight.

Second, from Chávez to Maduro, the political regime underwent changes that encompass two sets of outcomes. On the one hand, there are the linked outcomes of the breakdown of democracy and the gradual institutionalization of an authoritarian system. Executive encroachments by Chávez via a slow-motion constitutional coup prompted democracy to break down while his pursuit of hegemony via strongman rule and societal polarization engendered exclusionary forms of governance, which in turn catalyzed the emergence of an authoritarian system. On the other hand, the consolidation of an authoritarian regime marked by militarized corporatism warrants a separate explanation. Maduro's fully fledged form of authoritarian rule made a snapback to democracy very unlikely.

To survive an economic crisis of historic proportions (gross domestic product [GDP] collapsed over 70 percent between 2013 and 2020), Maduro made three principal changes. He refashioned the kleptocratic system he inherited into a narrowly cast military-centered corporatist structure, he continued to use executive encroachments to convert state institutions into adjuncts of the Maduro-military ruling coalition, and he expanded the forms of exclusion by explicitly including the militarized use of state power and paramilitary forms of coercion (UNOHCHR 2019). Maduro also refashioned community organizations into clientelist brokers as part and parcel of the more limited governance *chavismo* could exercise as a hegemonic minority. My account pays special attention to how power imbalances in the three core components of the democratic regime—elections, concomitant conditions, and legal and constitutional institutions—worsened over time, but I pay equal attention to authoritarian institutions. Analyzing authoritarian institutions in depth reflects a broader thesis—the breakdown of democracy and the establishment of authoritarian rule are not one and the same process, but two distinct dialectical processes.

To elaborate on these dialectical processes, I unpack authoritarian institutions on two levels. First, I examine the authoritarian electoral components of political contestation arenas, showing how the context of surrounding rights and freedoms made the regime illiberal, and illustrating how the subversion of the constitutional guarantees designed made the regime oligarchic (Chapter 3 in this volume). Second, from the perspective of governance, I trace the processes underpinning Chávez and Maduro's efforts to institutionalize their ruling projects, showing that these reflected three distinct patterns of domination and resistance in state-society relations: a predominant ruling party that limited pluralism (1999–2004); a semi-hegemonic party-state that wielded oligopolistic control over gover-

nance (2005–2013); and a hegemonic minority whose limited steering power narrowed the scope of societal governance to areas where monopolistic control could be wielded (2014–2021).

Thus, while my claim is built upon insights drawn directly from the application of this volume’s three-part framework for assessing the quality of democracy, I also develop a regime analysis framework that permits an equally compelling assessment of *chavista* authoritarianism. The framework situates the story of Chávez and Maduro’s governance models in the account of how *chavismo* transformed the rules for accessing and exercising power structures. I elaborate this account via a three-part periodization: (1) backsliding, polarizing constitutional change, and a failed coup (1999–2005); (2) elections and the erosion of liberal regime features (2006–2013); and (3) the semi-collapse of *chavismo* and Maduro’s hegemonic minority rule (2014–2020). The conclusion briefly assesses the future, discussing the implications of an approach that explicitly distinguishes the stages of a regime change spanning a transition from defective democracy to full authoritarianism, and suggesting new lines of research that could help us better comprehend one of the most vexing crises in Latin America.

## A Framework for Regime Analysis

To complement analysis of formal executive and Constitutional level changes with measurements of changes to power relations in society, I introduce government project institutionalization. This is defined as a top-down steering process of government action that turns proposal into regularized government practices. Governing project institutionalization unfolds in relation to the executive’s political power and the strength of state institutions.

In a Presidential system, such as Venezuela, the executive’s political power refers to influence over the ruling party coalition and its control over national and sub-national bureaucratic institutions. A powerful executive is an enabling condition for policy implementation to advance into, and reshape, political, economic, and civil society spaces. In parallel, the extent to which bureaucratic institutions operate in line with republican and liberal principles affects whether the state can be strong for the executive (low republicanism and low liberalism) or strong for the people (high republicanism and high liberalism). In this respect, the strength of state institutions should not be confused with the quality of institutions. Autocrats are fully capable of building strong states that can reach deep down into, and remake, society.

Unpacking governing project institutionalization further, it is crucial to underline that high executive power and high state strength do not have to go together. For example, strongmen do not necessarily command strong states. In fact, there is ample evidence of autocratic rule via limited state

governance.<sup>1</sup> Moreover, governing project institutionalization can follow different patterns. Classically, the two ideal type patterns are the inclusive governance models implemented by democratic regimes and the exclusionary governance models implemented by nondemocratic regimes.

Identifying the distinctive pattern underlying governing project institutionalization requires analysis of the executive's vision of governance, the core coalition backing a governance model, the key policies promoted by the model, the vehicles used to advance policy (party, civil society, military, or civilian institutions) and the ground-level methods (inclusionary or exclusionary) street-level bureaucrats use to implement governance (Stepan 1978). Determining the configuration of the government project institutionalization pattern is an essential element of regime analysis. Such insights expand our comprehension of how the balance of power is constructed and reproduced in both state and societal arenas of contestation, thus illuminating a regime's distinctive attributes.

### **Backsliding, Polarizing Constitutional Changes, and a Failed Coup (1999–2005)**

During his first two years in power (1999–2000), Hugo Chávez used and abused the presidency to set a foundation for constructing his self-described Bolivarian political project. Chávez, a former military officer, and coup leader who proudly identified as an outsider, began setting a foundation by fulfilling a 1998 presidential campaign pledge: to convene a process for electing a national constituent assembly that would revise the country's 1961 *magna carta*. The new constitutional basis for ruling was warranted, Chávez had long argued, because the nation needed a revolutionary re-foundation (Muñoz 1998).

The new constitution was the original cornerstone of the Bolivarian project. Chávez used the nationalistic frame of Bolivarianism to relate state and party-level developments as coupled processes. The new constitution gave Chávez's notion of Bolivarianism a formal endorsement when the document renamed the country the "Bolivarian Republic of Venezuela." Meanwhile, Chávez described the constitution as the pillar for founding what he claimed would be the country's fifth republic since independence. Parallel to this, Chávez had titled his political party the "Fifth Republic Movement." Standing at the center of the party's label was the heralding symbol of a capital "V"—for Venezuela and Fifth. The assembling of nationalistic, institutional, and partisan elements into one order became a hallmark of the *chavista* political movement's symbolism.

Chávez's quest to overhaul the political system posed new risks to Venezuela's defective democracy. He eschewed conciliation and chose a

strategy of confrontation that implied an exclusionary governance model premised on principles of limited pluralism. To concretely identify the nature of these risks, this section places a spotlight on Chávez's use of constituent power to enable the executive to encroach on other powers. Chávez harnessed the existing democratic regime's strengths (competitive elections) and weaknesses (lack of a strong independent judiciary) to fulfill a first stage of his hegemonic plans. Key developments in the central arenas of state-society relations are also discussed. It unpacks how a failed civil society countercoup opened the flood gates to widespread practices of political discrimination and intensified polarization. Spaces for political contestation degenerated into polarized political conflict and, moreover, polarization expanded, resulting in societal-level spaces becoming suffused with the same hostilities that marked the increasingly aggressive power struggle at the peak of the system.

The degeneration of contestation into conflict and polarization converted the situation of low-intensity citizenship into a crisis of citizenship. By crisis of citizenship, I refer to the collapse of the institutions underpinning republican virtue. As we will see, this involves practices that both undermine the exercise of the surrounding rights and freedoms which enable citizens to freely form collective preferences and tear apart the universalistic social identity underlying horizontal voice on behalf of civic goals (O'Donnell 1986).

When Chávez proposed the use of referendums, this presented the possibility of a significant break with the country's pacted democracy (Rey 1991; Coppedge 1994; Karl 1997). For example, in a sign of how tightly Democratic Action (AD) and the Social Christian Party (Comité de Organización Política Electoral Independiente, COPEI) controlled Venezuelan democracy from above, voting for subnational offices (governors and mayors) began only in 1989. During the three decades before, the parties appointed governors and mayors. Thus, for a political system accustomed to centralized decisionmaking, referendums seemed disruptive.

Institutionally, it was the judiciary that provided legitimacy to Chávez's push to place referendums front and center. In January 1999 the Supreme Court made an ambiguous and controversial ruling. It concluded that Chávez's idea of creating a national constituent assembly body through a convened referendum vote was not unconstitutional (Molina and Thibaut 2005; Brewer-Carías 2010a). Crucially, the court did not provide specific instructions about three sets of rules: (1) for referenda elections, (2) for governing the process of administering state power during the dual operation of a National Constituent Assembly (NCA) and an elected Congress, or (3) for the electoral guidelines that should be used to install an NCA (García Soto 2017). The absence of a clear framework proved fatal. It opened the door for Chávez to bypass the Congress, use decree power to call the

referendum for convening a National Constituent Assembly to write a new constitution, propose election race rules for selecting the NCA delegates that suited his interests, and, later, turn the NCA into a legislature with quasi-supranational powers.

The vote for convening an NCA election took place on April 25, 1999. With opposition voices calling for abstention, turnout registered at 36.3 percent (an amount totaling 16.9 percent of the population). This turnout constituted an historic low for a nationwide vote (Molina and Thibaut 2005: 556). With many anti-Chávez voters abstaining, participants decisively supported the “yes” options of the two questions—first about whether to convene the body (92 percent in favor) and second to elect the body (86 percent in favor) using plurality rules that did not incorporate proportional representation, a provision that paved the way for pro-Chávez candidates to dominate the July 25 election of the NCA’s delegates (Molina and Thibaut 2005: 543–544, 566).

It is crucial to highlight that Chávez chose to give referendums a central role in constitutional reform months after established political elites opened a different path to reforming the constitution. Influential parties AD and COPEI, which together won a plurality of seats in the November 1998 congressional elections (Molina and Thibaut 2005: 578–579), proposed to consider fundamental reforms to the existing constitution, including amending the constitution to add referendum initiatives (Trinkunas and McCoy 1999). Beyond explicitly rejecting this constitutional path and setting his eyes on using the presidency to rewrite the constitution, Chávez also went a step further. He denied the Congress’s legitimacy of origin, arguing that “the current electoral system produced a legislature that did not reflect the will of the people” (quoted in Trinkunas and McCoy 1999: 30–31). In the November 8, 1998, elections, Chávez’s congressional coalition had gained the second largest minority in the upper and lower houses. Thus, despite gaining a significant share of power in the November 1998 congressional vote, Chávez shunned the opportunity to exercise influence via the elected Congress. Months later, Chávez ratified his interest in using a referendum on a constituent assembly to wipe the slate clean. Hours after his inauguration on February 2, 1999, he issued a decree convening the referendum.<sup>2</sup>

Chávez not only excluded the existing Congress, he and supporters also maintained that the July 31, 1999, elected National Constituent Assembly writing the new constitution constituted the true organ of popular sovereignty. Accordingly, the NCA had dual authorities: to draft a new constitution and to substitute the 1998 Congress by exclusively assuming normal legislative functions. In October 1999, the Supreme Court upheld Chávez’s argument about the supra-constitutional character of the NCA, though the court’s president subsequently resigned in protest (Brewer-Carías 2004). After the December 15, 1999, referendum saw voters approve

the new constitution, the November 1998 elected Congress was dissolved. The NCA proceeded to appoint a monopolistic National Legislative Commission (colloquially known as the “little Congress,” or *congresillo*). The commission lacked a representative opposed to Chávez even though the 1998 congressional elections had generated pluralistic representation (Molina and Thibaut 2005: 544).<sup>3</sup>

Chávez’s constitution had hyper-presidential provisions. Unlike the 1961 constitution, which banned immediate reelection and required former presidents to wait ten years before running for reelection, the new constitution allowed for immediate reelection (but not permanent reelection, which would come later). Moreover, it lengthened the presidential term to six years and eliminated the senate to create a unicameral Congress. The new constitution centralized crucial decisionmaking power regarding military promotions in the hands of the president, a process previously subject to senate approval. This altered the balance of power regarding civil-military affairs, giving Chávez full political control over the military. In a series of parallel provisions that greatly helped Chávez develop his civil-military platform, the constitution granted military officers the right to vote, enhanced the policymaking power of the armed forces, and revised their relationship with civilian institutions by changing their status from an obedient to deliberative body vis-à-vis civilian (Trinkunas 2004: 211–212; Molina and Thibaut 2005: 544). From 1999 to 2003 approximately one-third of Chávez’s cabinet included active or retired military officials, some of whom held influential ministerial posts (e.g., interior and infrastructure) (Trinkunas 2004: 213).<sup>4</sup>

The constitution did extend new opportunities for popular accountability via recall referendums against the president. Likewise, a new human rights system would be led by an ombudsman while the document included guarantees for social rights such as health. Principles of decentralization were ratified, but the progress on this front had come to a halt during the new political juncture. Nevertheless, while the new constitution proudly stated in its preamble that Venezuela was experiencing a shift from a representative to participatory democracy, and that *el pueblo* (the people) would play a protagonistic role in public affairs, the key principles animating Chávez’s vision of democracy suggested these formal ideas would be at cross-purposes with his practical methods of governing. For example, Chávez always positioned the people at the center of the story. Yet, Chávez’s speeches communicated a markedly top-down model of ruling.

The erosion of horizontal accountability between 2001 and 2004 brought democracy to the breakpoint. The July 2000 general election reconfirmed *chavismo*’s electoral dominance: Chávez’s landslide victory over Francisco Arias Cardenas (59.8 percent to 37.5 percent)—a former participant in the failed 1992 coup led by Chávez who broke ranks with

the government and ultimately rejoined *chavismo*—had a major down-ballot effect. Chávez’s candidates, registered as members of his electoral vehicle the Fifth Republic Movement Party (MVR), won a majority, but fell short of gaining the two-thirds majority needed for making key appointments without opposition support. *Chavismo* was the dominant political force, but, as a governing party, it had neither gained full control over the state nor consolidated a core coalition of strategic interest groups.

Recognizing that, in a country where around 90 percent of export revenue came from oil and gas sales, and capturing Venezuela’s state-run oil company *Petróleos de Venezuela Sociedad Anónima* (PdVSA) would enhance executive power, Chávez’s government spent most of 1999 and 2000 locked in tense negotiations with oil workers’ unions. The oil workers’ unions—associated with the country’s umbrella labor federation and, moreover, controlled by leaders who also formed part of the opposition AD and COPEI party hierarchies—had successfully used strikes to make PdVSA accede to union demands.<sup>5</sup> By flexing their muscles to make contract gains, the unions had also sent a strong political signal to Chávez. The signal was about placing a check on Chávez’s advances. In reaction, Chávez tried to outmaneuver the groups that had imposed this check. In the December 2000 municipal election ballot, Chávez successfully included a referendum vote on the question of whether to subsequently hold a popular election for choosing the Confederation of Venezuelan Workers (CTV) union leadership. Voters supported holding the referendum. However, ten months later, Chávez’s candidate lost to CTV leader Carlos Ortega. After the embarrassing electoral defeat, the first Chávez suffered while in power, neither he nor his government recognized Ortega’s victory or the standing of the CTV.

Chávez’s backfired attempt to delegitimize the CTV helped the labor federation create an alliance with its historic adversary. By the end of 2001 the CTV joined forces with FEDECAMARAS, the country’s oldest and most important business federation. The formation of the labor-business alliance seemed to mark the end of Chávez’s honeymoon. With economic challenges looming, and limited evidence of governmental success in reducing social suffering, polls reported that the administration’s approval had fallen twenty points (Hoag 2001).

Chávez doubled down on a hardline strategy of executive-led change. His three key strategies were: (1) explosive rhetoric that polarized the country; (2) efforts to gain control over the armed forces and the oil sector riled opposition groups; and (3) economic policies that heightened a brewing conflict and pushed the situation to a tipping point. Chávez had long grumbled that traditional parties and their adjunct institutions—such as the CTV and FEDECAMARAS—represented a “rotten oligarchy” (Zambrano 2001). What is more, Chávez branded opposition actors *los escuálidos*.<sup>6</sup> A

pejorative term that combined the qualities of being immoral and filthy, the “*escuálido*” label encapsulated Chávez’s disrespect for political pluralism.

In November 2001, Chávez flaunted his executive power by decreeing forty-nine laws. This decreed *paquetazo*—a term used in Venezuela to capture the shocks generated by Chávez’s packaging of policies as a decree—included highly controversial land and hydrocarbon sector reforms. The *paquetazo* came on the heels of a series of vicious attacks against veteran PdVSA leadership, developments provoked the already anxious business sector. With opposition parties unable to shape the national debate, and the next opportunity at the ballot box years away, the coordination of resistance was in the hands of civil society leaders from media groups and peak interest group associations while contestation moved to the streets (Encarnación 2002).

The spring of 2002 saw hundreds of thousands of Venezuelans demonstrate both against, and in defense of, Chávez’s rule in urban centers throughout the country. On April 7, 2002, a Caracas demonstration led by oil workers elicited a televised real-time response from Chávez. Taking to the airwaves for one of his many *cadena nacionales*—national broadcasts that, by law, private and public media outlets had to cover—Chávez, on live television, fired seven PdVSA executives participating in the demonstration. Mimicking the actions of a referee in a sporting event, Chávez blew a whistle to declare these seven workers’ expulsions as he read the individuals’ names.

Provoked, the opposition, now grouped under the umbrella *coordinadora democrática* (democratic coordinator) structure of parties and civil society leaders, focused on a *paro nacional*, a work stoppage from which there would be no turning back. The underlying political message of the next demonstration was that Chávez’s power grabs amounted to an *autogolpe*. Leaders argued that Chávez had been elected, but between his frequent use of decree power, his provocative autocratic style, and emergent strategic alliance with Cuba’s Fidel Castro, he posed an existential threat and, therefore, needed to leave power immediately.

### *A Civil Society Countercoup*

Over forty people died in the civic violence that broke out as an April 11 march descended on the presidential palace. The march catalyzed a failed coup against Chávez. The twenty-four hours between April 11 and 12 saw the situation undergo a dramatic turnaround. Although there was confusion over whether the president formally resigned (he had not), Chávez left the presidential palace April 11 in the evening. In the morning of April 12, the interim leader Pedro Carmona—the President of FEDECAMARAS, who had omitted the constitutional line of succession of executive powers passing over the president of the National Assembly in the event of the president’s resignation—decreed the illegitimacy of elected public institutions and the 1999

Constitution. Yet, by the afternoon, the interim junta led by Carmona aborted the coup. Sufficient support from key military sectors in the army had not been secured. When pro-Chávez government groups contested the putsch, the interim junta crumbled (Coronil 2011). The whirlwind episode lasted seventy-two hours, with Chávez triumphantly returning to power and taking back his office in the presidential palace on April 13.<sup>7</sup>

After the coup attempt, the crisis cycle did not de-escalate. The opposition doubled down on expelling Chávez. The new method centered on a long-term oil sector strike (*paro*) that aimed to shut down oil exports and occasion a new presidential leadership crisis. Led by PdVSA oil workers, the oil strike lasted two months and crippled the economy.<sup>8</sup> However, Chávez rallied and ultimately outlasted the strike, eluding another attempt to topple his government. After the strike ended, international actors persuaded the government and opposition to reinstitutionalize contestation via competition at the ballot box. The agreement mediators struck centered on the new 1999 constitution's provision for a recall referendum, a possibility once the president had passed the midpoint of his term. The recall referendum process played out for over a year, with Chávez using institutional controls to make the opposition clear hurdle after a hurdle. Playing for time worked. Oil prices recovered and new electorally timed social programs delivered assistance to Chávez's base (Penfold 2007). The vote, overseen and certified by the Organization of American States and the Carter Center, took place August 2004. Seventy percent of the electorate turned out for a vote Chávez won by a margin of nineteen points (59 percent to 40 percent).

Emboldened, Chávez responded with hard ball politics. First, back tracking on one of the agreements made under the auspices of international mediation, Chávez not only fired state workers who walked off the job, he denied them their pensions and other severance benefits (McCoy and Diez 2011). That action rejuvenated a preexisting pattern of state-based political discrimination that, during the recall referendum campaign, took place via the so-called *Lista Tascón* (Tascón List). The list, named after pro-government congressperson Luis Tascón, consisted of the names of individuals who signed public petitions calling for the recall referendum mechanism to be enacted.<sup>9</sup> Tascón published the list on the internet, providing a convenient political litmus test formula for Chávez-appointed state managers to follow in selecting and firing employees and or a basis for these officials to place unwarranted pressure on employees to vote for Chávez in the referendum (Penfold 2007; Nichter 2008; Hsieh et al. 2011).<sup>10</sup> Building on the Tascón list, pro-government actors later created *Maisanta*, a more encompassing database of all registered voters' behavior. *Maisanta* facilitated more targeted voter mobilization and suppression efforts (Hsieh et al. 2011).

The second highly influential development concerned the courts. Arguing that some Supreme Court justices had supported the interim coup gov-

ernment, Chávez reorganized the Supreme Court in 2004. In May 2004, he expanded the court's size from twenty to thirty-two judges, and in December proceeded to stack it in his favor by naming new judges to fill empty seats on the bench and by filling the twelve new seats (Human Rights Watch 2008). As the reorganization of the Supreme Court occurred in the broader context of deinstitutionalizing constitutional checks on the executive, it fit into the pattern of Chávez rendering the formal institutional mechanisms of horizontal accountability ineffectual.

### *Assessment 1:*

#### *Executive Encroachments and Limited Pluralism*

From 1999 to 2004, Venezuela experienced two important episodes of democratic backsliding. Via Chávez's slow-motion constitutional coup, the regime slid backwards from a highly defective democracy to an electoral democracy marked by rampant executive encroachments (1999–2001). Then, between 2002 and 2004, fueled by unrelenting executive encroachments, tit-for-tat political and societal-level retribution, and the opposition's illiberal attempts at grabbing power, the regime moved into the grey zone of an authoritarian situation (Linz 1974). In this phase, Chávez's populist leadership represented the overlapping factor between executive power and governing project institutionalization. He simultaneously played the roles of the commander in chief who proudly brought the military into civilian politics and the indispensable charismatic leader of a new mass political movement that lacked organizational shape but reliably mobilized on his behalf. While the government's project was not yet fully implemented, Chávez's strategic use of polarization, his endorsement of widespread practices of political discrimination, and his use of clientelist mechanisms for branding social policy as chavista had established three methods of exclusion. These became pillars of a coherent model of exclusionary revolutionary governance. Thus, by 2005, the breakdown of democracy was not complete, but conditions for genuine political competition no longer existed. Snapback re-democratization constituted a plausible, albeit unlikely, outcome.

#### **Elections and the Erosion of Liberal Features of the Political Regime, 2005–2013**

From 2006 to 2013, opposition political parties made a strategic pivot, but their willingness to play by the new constitutional rules revealed that the deck was stacked against them. After a four-year period in which opposition leaders' behavior changed almost yearly, they committed to a strategy of electoral contestation. This strategy involved regularized participation

in seven electoral processes convened by the state National Electoral Council (CNE), theoretically an independent power in the 1999 constitution's five-part system of public powers: executive, legislative, electoral, citizen, and judicial.

Political parties' commitment to contesting Chávez via elections marked a new period in the power struggle. Yet, the centering of elections was one of many patterns shaping the political system. At the level of the state, electoral-based struggle coincided with the ascent of Chávez's Bolivarian socialist model. As part and parcel of this model, nationalistic economic governance took center stage, a possibility disclosed by the emergence of a commodity-price super-cycle boom from 2003 to 2014. Meanwhile, Chávez introduced a new system of communal governance and proposed that his 2007-founded party, the United Socialist Party of Venezuela (PSUV), become a dominant societal force. With so many developments suggesting Chávez would try to fulfill his hegemonic aspirations, the likelihood of conflict still seemed high. What was likely to be different, though, was the pace and stakes of the conflict. The opposition's electoral path placed government and opposition parties on a collision course that entailed the opposition contesting Chávez's ongoing constitutional coup with street demonstrations and voter mobilization.

### *Opposition Strategy*

In 2005 a battle for control over the opposition's strategy illustrated the fact that forces opposed to Chávez were in disarray. Broadly speaking, the civil society groups faction continued to promote a strategy of disruptive disobedience. On the issue of elections, hardline groups were not organizationally motivated by the goal of making a multiyear investment in party building while they also expressed skepticism that the Chávez-controlled state would allow elections to be used by the opposition to rebuild itself. In contrast, many political parties wanted to leave behind the highly confrontational methods that prevailed from 2002 to 2003 and recenter ballot box-based contestation.

At the state institutional level, electoral contestation was a potentially useful tool for parties to reduce the asymmetry of power between government and opposition. Concretely, reducing the asymmetry entailed using participation in elections as an opportunity to enter discussions with state electoral authorities about writing fairer rules for electoral competition. Even if these efforts were unlikely to compel the Chávez government to follow fairer rules, participating in elections raised the possibility of making societal-level gains. Participating held out the prospect of making crucial organizational gains and resetting the balance of partisan political power in society. A consensus about what path to follow could not be

reached in 2005 and opposition parties opted to abstain from legislative elections at the last minute. That decision awarded chavismo all the seats in the 2006–2010 unicameral Congress.

For the December 2006 presidential vote, opposition political parties united behind a regional politician named Manuel Rosales. Rosales called himself a social democrat and his campaign tried to leverage nationalist arguments against Chávez, such as criticizing the government for oil giveaways to Cuba while crime rates skyrocketed, and poverty remained stubbornly high. Chávez easily won reelection, gaining 62.89 percent of the vote share, a three-point increase from his 2000 election haul. Chávez's 25 percent spread over Rosales (36.85 percent) was the largest margin in a Venezuelan presidential election (Consejo Nacional Electoral, CNE 2006). On the night of the election Rosales accepted the results while Chávez proclaimed “long live the socialist revolution” at a victory rally held outside the Miraflores presidential palace (*New York Times* 2006).

Shortly after the election many changes would be announced, one of the more important institutional ones being the CNE electoral body's elimination of international electoral missions as third-party actors that verified local authorities' reports. After six international electoral missions had visited Venezuela as formal observer groups licensed with the authority to review the integrity of the entire electoral process, the CNE adopted a new regulatory framework. The new framework marked a shift to a “Sovereignty and Cooperation” driven structure of engagement with technical observer missions (CNE 2007). That structure was called “electoral accompaniment.” It converted semi-binding monitor groups into symbolically meaningful observers of electoral processes (McConnell et al. 2011).

### *Chávez's Governing Project*

Chávez used his first big post-election speech to officially announce his government's new twin priorities: building “Twenty-First-Century Bolivarian Socialism” and creating a socialist political party to be named the PSUV. An implementation plan for installing this grand system followed. In January 2007 Chávez outlined the five new constituent motors of the revolution, which he described as the catalysts for building socialism: (1) the enabling law to allow the president to govern by decree, (2) a constitutional reform, (3) education with socialist values, (4) the “new geometry of power” (territorial reorganization); and (5) the “explosion of popular power”—the construction of a protagonist, participatory, and socialist democracy.<sup>11</sup>

Chávez saw the PSUV, which used bright red colors to capture its left-wing ideology, as the key implementing tool for drawing state and society closer together. Chávez's March 2007 address marking the formal founding of the PSUV party evoked Leninist principles of vertical integration. The

PSUV's job would be to join the government in helping to forge socialist communion between state and society. At the time of its founding, the PSUV was not well prepared for this job. Although its initial value as a tool for forging socialist communion was limited, important grassroots-level work for generating deeply ideological links between state and society had already begun. First, in 2003 and 2004, during the Recall Referendum process, Chávez and *chavismo* had used ad hoc partisan campaigns to successfully promote block-level social assistance programs known as *misiones*. Second, in 2005 and 2006 steps had been taken by government institutions to build "the bases required for building revolutionary state processes of sociopolitical transformation"—the "installation of a socialist model" (El-Troudi 2005: 14).<sup>12</sup>

Chávez refashioned spaces for grassroots mobilization by converting them into institutionalized venues for state-linked community organizations that would carry out state funded community development projects. This multi-step process dated to the start of Chávez's tenure while its formative phase of development began in 2005 when Chávez began funding community development projects under the notion of *poder popular* (popular power), a concept evocative of Lenin's dual power model of democracy (Cicciarello-Maher 2007). In 2006 Chávez rationalized his vision of *poder popular* by calling for the centralization of dispersed grassroots organizations via the creation of the integrative block-level communal council.

Chávez's continuous backing of the councils helped the organizational form gain mass appeal. By 2010, tens of thousands of councils were operating as block-level governance structures for community development. With illiberal and oligarchic internal governance making exclusion a dominant important pattern in councils' behavior, the groups constituted a virtual *chavista* grassroots army of popular sector organizations. As a result, the councils helped the then weak PSUV party by laying the groundwork for a model of governance that called for greater state encroachment into societal spaces. Later, from 2008 to 2010, via continued public support from Chávez, and via its embeddedness within state institutions, the party gained the financial and organizational muscle to penetrate community spaces (Handlin 2016). Thus, the communal councils started as multifaceted tools of the revolution while the PSUV followed a lead from behind strategy before trying to swoop in and supplant the councils, a process that created community-level conflict between independent-minded *chavista* activists and party officials (McCarthy 2012, 2016).

During this same 2006–2010 period, Chávez's attempts to remake the economy into a socialist model also unfolded. Arguably, partisan political meddling signaled the arrival of the socialist remake plan. Months before Chávez's formal declaration of his socialist goals and the PSUV's founding, Chávez's energy czar made comments to state oil company employees that

“the new PdVSA is red, red from top to bottom.”<sup>13</sup> When the comments leaked to the press, they went viral. The exclusionary message implicit in the idea of making PdVSA a partisan organ also sent a broader signal to all economic players. Economic change would have a political motivation. Over the course of 2006 and 2007 Chávez renegotiated 32 operating agreements with foreign oil companies into joint ventures with PdVSA, in the process increasing the Venezuelan government’s share to between 60–80 percent and effectively “re-nationalizing” the oil sector. From 2007 to 2009, Chávez continued his nationalization spree, sometimes very aggressively, resulting in the state becoming the owner of a staggeringly diverse group of companies, from bottling, cement, and agricultural companies, to mining, steel, electricity, telecommunication, and other basic industry companies, as well as select banks and valuable plots of land.

In the second semester of 2007, Chávez led a campaign on behalf of what he and his supporters labeled a proposal to “reform” the 1999 constitution. The government’s description of the proposed changes as a “constitutional reform” generated controversy because the proposal had an unambiguously broad scope. The proposal called for placing Venezuela on a path to socialism, creating a new geometry of power, structurally adjusting relationships between the national and subnational levels of government, modifying 69 of the 350 articles in the 1999 constitution, and eliminating presidential term limits, among other proposed expansions to executive power (Lander 2007: 5).<sup>14</sup> However, the 1999 constitution defined a constitutional reform as a “partial revision” of the existing constitution through the “substitution of one or a few norms without modifying the structure and fundamental principles of the constitutional text” (Constitution of the Bolivarian Republic of Venezuela 1999: 342). Nevertheless, the Supreme Court deferred to the executive and allowed Chávez to proceed ahead with a referendum vote on the putative “constitutional reform” proposal.

On December 2, 2007, Chávez lost this key vote. With 56 percent participation, the initiative to approve the proposal lost by a 1–2 percent margin.<sup>15</sup> Abstention among the chavista base, particularly from lower-income populations, cost Chávez the victory (Hidalgo 2011: 79). The “yes” vote total fell three million votes short of the tally Chávez received in the December 2006 Presidential while the “no” vote increased by 250,000 votes compared to the total Rosales received (Sullivan 2009).

### *Opposition Societal Gains amid Autocratization*

In early 2008 hard evidence of undue restrictions on citizens’ right to run for office emerged. The Venezuelan comptroller general published a list of 270 citizens disqualified from running for elected office, alleging their involvement in the misuse of public funds. The comptroller general disqualified

high profile, popular opposition politicians such as Leopoldo López, the former mayor of Chacao municipality in Caracas then running for metropolitan mayor of Caracas. The disenfranchisement of citizens' rights to compete for public office disenfranchisement, cast a dark shadow over notable gains made by the opposition at the polls—for example, it won the metropolitan mayor of Caracas race despite its first-choice candidate Leopoldo López being disqualified and it won in the economically powerful and populous Miranda governor's race.

In its electoral debut the PSUV won most of the mayoral and gubernatorial races. This outcome was expected, as the party's national reach and resource base were unmatched. Yet a deeper analysis revealed chavismo's weaknesses. Prominent leaders, such as Diosdado Cabello, had lost their races and the party had greatly benefited from both *ventajismo*, use of state resources for political campaigning and political discrimination against state workers that created a highly coercive context, and strong-arm tactics executed through the state's Citizen and Judicial branches.<sup>16</sup> Overall, the victory was bittersweet. Some argued *chavismo* felt a "sense of defeat" (Hidalgo 2011: 80).

Undeterred by the partial setbacks experienced in 2007 and 2008, Chávez proposed a referendum vote to ban term limits on all offices. His wish was granted by the Supreme Court even though the defeat of his 2007 proposed change to the constitution had included a question banning term limits on the presidency. On February 15, 2009, Chávez won the referendum (55 percent to 45 percent). The vote was effectively a plebiscite on whether he could rule past 2012; the 1999 constitution restricted presidents to two terms. Then, in April 2009 Chávez enacted a law that created a parallel authority to the opposition metropolitan mayor of Caracas. The position was filled by presidential appointment. Filling the position entailed stealing budgetary and other legally protected authorities from the elected mayor.<sup>17</sup>

Beyond support for Chávez, however, questions about the PSUV's popularity dogged chavismo. The ruling party lost the popular vote by 2 percent (250,749 votes) in the 2010 legislative elections, with the PSUV winning 48.2 percent and the anti-Chávez forces winning 50.3 percent. However, thanks to gerrymandering changes made ahead of the election, chavista candidates running on the PSUV ticket obtained a majority—98 out of 165 seats in the Congress while the opposition coalition, now encompassing a new center-left party that caucused with the opposition, won 65.

Consistent with the uncompetitive practice of naming an unelected parallel authority to undercut the opposition metropolitan mayor, the outgoing 2006–2010 national assembly passed laws meant to directly undermine the power of the incoming elected National Assembly Congress. It passed a sweeping enabling law that gave Chávez decree powers for eighteen months, approved a package of thirty-nine laws that included new organic laws for

creating communal governments and economies, and amended the internal rules and procedures system “to limit the number of sessions that can be held by new deputies in the National Assembly, as well as their participation.”<sup>18</sup> Thus, during the 2008 to 2010 cycle of regional and legislative elections, the opposition made minimal governing gains (due to new executive encroachments) but made notable societal gains. Meanwhile, Chávez autocratized his rule, a development that made the movement’s problem of governing via a strong President and weak national party more salient.

In June 2011 news about Chávez’s illness sent shock waves across Venezuela. From Havana, Cuba, Chávez announced that he had a cancerous tumor removed from his pelvis. He underwent multiple rounds of chemotherapy in Havana in July 2011 and then received radiation in March 2012 (also in Havana) after a lesion was discovered in the same area of the original tumor. Chávez did not seem likely to survive this bout with cancer, as he himself implied in April 2012 by publicly asking God “not to take him yet.”<sup>19</sup> Nevertheless, Chávez confirmed his intention to run in the presidential race. This decision raised questions about when an eventual leadership succession plan would be announced.

Chávez’s opponent was Henrique Capriles, the governor of the state of Miranda who won the Democratic Unity Roundtable’s (Mesa de la Unidad Democrática, MUD) open primaries for Presidential candidate. Capriles campaigned on a social democratic platform ratified by the MUD. He framed the race as a David versus Goliath-like contest, walking the fine line of criticizing the *ventajismo* that gave the incumbent tremendous institutional advantages while explaining that his campaign had the infrastructure to defend the integrity of the vote on election day.<sup>20</sup> Chávez appeared to have the unconditional political backing of the military—in 2010, Army Chairman General Henry Silva told a local press outlet that the military was “married to the socialist political project” [of Chávez] and that it would not accept an opposition government—and his health situation generated sympathy with the population. Amid favorable conditions for winning an election and widespread abuse of state power (Carter Center 2012),<sup>21</sup> Chávez bested Capriles 55 percent to 44 percent.

Chávez was formally pronounced dead on March 5, 2013, roughly four months after he had personally anointed then–vice president Nicolás Maduro as his successor. Immediately after Chávez’s March 8 state funeral, Maduro was sworn in as interim president in an official ceremony that boosted his dual status as Chávez’s heir and the chavista coalition’s incumbent. Maduro won the controversial snap elections over Capriles by 1.49 percent, with approximately 700,000 voters switching from chavismo to the opposition between the October 7, 2012, and April 14, 2013, election. Fiery street protests broke out after Capriles accused Maduro of stealing the election, but the situation simmered down. The legal controversy over the election was

not formally settled until August 2013 when the Supreme Court denied Capriles's appeal regarding his claim of fraud. By then attention had already shifted to the uncertainties regarding Maduro's leadership.<sup>22</sup>

The fact that Capriles did not convincingly prove his claims regarding fraud meant very little from the perspective of demonstrating the truth about how much the election's irregularities contributed to Maduro's victory. The facts of the case regarding the unlevel playing field were established before the vote occurred.<sup>23</sup> Thus, in a paradoxical way, the absence of sufficient state evidence showing fraud seemed to suggest the existence of a functional authoritarian system that blocked democratic responses by restraining whistleblowers and covering up mistakes. Likewise, the dismissive, amateurish responses from the Supreme Court and the CNE to Capriles's calls for recounts and investigations also suggested the existence of a sealed system. Indeed, it stands to reason that if an important part of the regime created by Chávez—for example, some key actors positioned inside influential state institutions or a segment of the military—was genuinely democratic, then responses to the episodes of the Chávez-Maduro transition and the April 2013 snap election would have been different.

### *Assessment 2:*

#### *Chávez's Autocratic Turn and the Socialist Party-State*

Venezuela's electoral system failed to produce the two goods elections must facilitate to be deemed democratic: genuine competition and rightfully obtained majorities. Thus, despite the opposition's use of electoral institutions to set Chávez back a step in his pursuit of constitutional reform, between 2005 and 2007 the regime drifted into the authoritarian grey zone. The key transition juncture in the process of the uncertain authoritarian situation stabilizing into an institutionalized authoritarian regime occurred when the ruling party crossed new abuse of power thresholds between 2008 and 2011. The Executive reacted to opposition electoral popularity and ruling party electoral losses by placing bans on the right to run for office, cooking up states of exception arguments to justify both the creation of parallel authorities and the fixing of Congress to marginalize opposition, and the army chief declared his institution's unconditional political support for Chávez and the ruling party. At the societal level, the organizational structure of the chavista movement transitioned from a Chávez-led mass (1999 to 2005) into Chávez's state founded, mass-based political movement (2006 to 2013). This coincided with the growing interventionist role of the PSUV in shaping the agendas of state and community institutions, as well as politically motivated state takeovers of businesses and property. These developments led to the formal reproduction of the three main existing methods of exclusionary governance: polarization, political discrimination, and clien-

telism. This nationwide, more organized reproduction of exclusionary methods pushed chavismo's previously illiberal governance system into a semi-hegemonic governance system. Facilitating the installment of this broader based governance system, the windfall of economic resources Chávez received from the oil boom was translated into a system of inducements to mobilization (Mazucca, 2013). Thus, beyond backsliding from electoral democracy to electoral authoritarianism, the party-state's semi-hegemonic governance powered authoritarian regime construction in state and society, yielding a political regime that was in transition to full authoritarian rule.

### **Maduro's Hegemonic Minority, 2014–2021**

Executive encroachment not only weakened the concomitant conditions that made elections meaningful, but also weakened the capacity of the state—making it vulnerable to corruption and weakening the apparatus of public administration necessary to steer government action on behalf of popular majorities' expressed interests. Chávez's socialist economic model was a house of cards. The system proved to be heavily, if not totally, reliant on windfall gains from the commodity prices boom (Puente and Rodríguez 2021; Monaldi 2015; Magud and Spilimbergo 2021).<sup>24</sup> One assessment of nationalized companies found that all the new state-owned enterprises produced less efficiently than when they were in private hands and discovered that cronyism, padded pay rolls, and pervasive graft characterized their management (Obuchi et al. 2011). More broadly, expropriations and socialist rhetoric heightening uncertainty about property rights, the country's business climate deteriorated dramatically while socialist controls diminished the role of the private sector.

Flush with petro-dollars, the ruling party had extended its organizational reach throughout state and society, rewarding supporters, and punishing opponents while extending its presence (Corrales and Penfold 2015). Corruption permeated virtually all the grassroots spaces where block-level mobilization linked up with state-financed community development. Meanwhile, at the level of the ruling elite, oil rents fueled a highly corrupt spoils distribution scheme. In 2016 two former ministers from the Chávez government called for an investigation into the embezzlement of an estimated \$300 billion in state funds, an amount they calculated as equal to one-third the value of Venezuela's oil exports during the super commodity cycle of 2005–2014.<sup>25</sup> They were not the first *chavista* voices to discuss corruption on the record. In the Spring of 2013, the then-President of the Central Bank of Venezuela (BCV), admitted that one-third of imports financed by the state in 2012—approximately \$20 billion—were allocated to shell companies (or *empresas de maletín*).

As bookends surrounding the tumultuous power transition from Chávez to Maduro, the 2013 and 2016 statements from the then-president of the Central Bank and the former ministers, respectively, bring a central point into focus. While it is hard to pinpoint the date at which a full-blown kleptocracy emerged, by the time Maduro was in charge, the carnival of corruption was well entrenched.<sup>26</sup> This was thanks in part to the sheer magnitude of the commodity cycle boom. However, the nature of predation cannot be explained by exogenous shocks. The extent to which Chávez's autocratic style hollowed out the institutions of horizontal accountability accounts for kleptocracy's emergence.

Thus, as he ascended to presidential power, Maduro was intimately aware of the dual reality that state institutions were dysfunctional and that he stood at the middle of a system built on corruption. The fact that Maduro was not Chávez-like on the dimension of charisma made the problem even worse for him. It was risky to build his own base of support soon after Chávez's death, but, worse yet, it was not clear Maduro could accomplish that feat because he lacked luster. The economy began to tank in 2013 and 2014 (−1.3 percent and −3.9 percent contractions, respectively) before the negative oil price shocks hit in December of 2014, causing the economy to fall off a cliff (−6.2 percent in 2015). Then, from 2016 to 2020, Venezuela suffered a combined GDP contraction of over 70 percent (International Monetary Fund, 2021: 45, 47). In dollar terms, what in 2014 was a \$480 billion economy was estimated to be a \$45–50 billion economy in 2021 (International Monetary Fund, "IMF Datamapper: Venezuela Country Data").

Before the economy entered a tailspin in 2015, Venezuela experienced the highly disruptive protest cycle called "The Exit" (*La Salida*). Protests peaked from January to March before declining in April and May. The wave of protest began in the interior of the country and spread to Caracas where Capriles's rival Leopoldo López led highly contentious mobilizations, some of which involved violent encounters between demonstrators and state officials. After international mediation, the protests eventually fizzled out—with López already jailed in February on trumped up charges of terrorism, incitement and conspiracy—but not before about 3,000 demonstrators were detained, 900 injured, and over 40 killed.<sup>27</sup> Confronted with the dual challenges of an opposition resistance movement and the crumbling economy, Maduro made the safe play: consolidating both the authoritarian institutional elements and the corrupt corporatist elements of the economy. By consolidating Chávez's system, he would slowly gain the respect of fellow members of the ruling elite who valued the status quo.

For Maduro, consolidating core parts of the existing predatory structure seemed like the best way to avoid making enemies in the wrong places. Heightening levels of corruption went in hand in hand with the worsening of the rule of law, an outcome that again strengthened the incentives for

authoritarian behavior by ruling party leaders and disincentivized democratic behavior by state elites.<sup>28</sup> The wager caused collateral damage. Maduro had to make major concessions to ruling elite coalition members, namely the military. In 2017, General Manuel Quevedo, who came from the National Guard, the service with the least amount of prestige, became the president of PdVSA. Quevedo gave the military direct access to PdVSA by appointing dozens of military officials, replacing some of the last remaining technically competent engineers and managers. Predation had always included active military and long-standing civilian chavista sectors, but under Maduro the military became much more salient power brokers (Diamant and Tedesco 2021).<sup>29</sup>

When Venezuelans went to the polls in the 2015 legislative elections, the stakes of power had grown exponentially. The risks for incumbents were both economic and political. Illegally amassed fortunes were at stake. Moreover, without a dominant leader who could arbitrate between power factions, *chavismo* faced collective action problems creating uncertainty about the future of the movement. This tended to not only reinforce authoritarian behaviors but also reinforced the desire to avoid disruption of the existing order.

This structural analysis of power relations leads to the contention that, given these stakes of power, Maduro's ruling party structure—which steadily lost popular support in 2015 after the shocks of the oil price boom's abrupt end in 2014—would try to block democratization efforts. Ruling party leaders' intentions to protect their stakes did not, however, guarantee Maduro's ability to successfully bury the remaining fragments of democratic governance. Amid an economic depression with output losses worse than those experienced by some countries plunged into civil war,<sup>30</sup> several events proved the resilience of Maduro's authoritarian staying power.

After the *La Salida* protest cycle opened divisions within the opposition, the coalition came back together ahead of the 2015 National Assembly elections. The foundering economy gave the opposition a chance to win big on the back of a protest vote. Their victory ended up exceeding popular expectations, with opposition candidates winning enough seats to gain a two-third's majority in the Congress. However, the Supreme Court restricted the opposition-controlled National Assembly from passing laws and holding the regime accountable while it also accepted pro-government petitions regarding supposed fraud in select races won by opposition candidates.

The blocking of the National Assembly placed the two sides on a collision course. The clash occurred when the opposition sought to activate a recall referendum against Maduro in 2016, a year in which the Venezuela's economy contracted by 17 percent. Despite mobilizing marches that swelled into the hundreds of thousands, and strategically using nonviolent protest, the opposition failed to dissuade authoritarian elites or incentivize

hidden democrats inside the regime. Courts blocked the recall initiative, creating a stalemate that then led to international mediation by the Vatican in 2016 and 2017. Venezuela then experienced what opposition leaders thought would be a democratic spring in 2017. This occurred after the Supreme Court usurped the powers of the National Assembly at the behest of Maduro. That self-coup earned Maduro a public rebuke from his attorney general and catalyzed another massive anti-government protest cycle. Venezuela's crisis garnered global attention as throngs of peaceful demonstrators repeatedly clashed with the recalcitrant national guard. Maduro's iron fist response of repression cost him further reputational damage. Maduro then opted to try and land a knockout blow by convening a National Constituent Assembly without submitting the idea to a popular vote first, as the Constitution called for. Despite a spike in political violence meant to stop the NCA, Maduro installed the supra-constitutional body, a move that took the spirit out of the opposition's fight by supplanting the democratically elected National Assembly.

After fending off these internationally backed opposition political challenges amid historical levels of economic distress, Maduro gained the reputation as a survivor. Maduro then preempted the opposition's next move. Taking advantage of the fact that, after three years of power grabs and repression, his image was already that of a dictator, Maduro entered negotiations with little to lose. His proposal for early presidential elections, rejected by the opposition negotiators, did not cost him much in the short term as it helped him secure victory in a rigged May 2018 vote most of the opposition abstained from.<sup>31</sup>

While Maduro battled for his life amid the catastrophic economic crisis, he and his movement relied on top-down and bottom-up sources of support to cling to power. Maduro controlled an ideologically committed and corrupt military, oversaw a resource rich state economy backed by global powers China and Russia and supported by energy producer Iran, and benefited from Cuba's long-term security assistance. It also may have helped that Maduro had access to illegal finance from drug trafficking and black-market gold mining, each of which involve remnants of Colombian guerilla movements that entered Venezuela and set up new operating bases. Last, and most importantly, as has been documented by successive annual reports from the United Nations High Commissioners for Human Rights Office since 2018 and from the United Nations International Fact-Finding Mission on Venezuela since 2019, Maduro used a campaign of state terror via the formal state apparatus and via private paramilitary groups to commit mass human rights abuses. These abuses, which when fully tabulated may end up totaling a population of victims comparable to the losses Argentina experienced during the "dirty war" (1976–1983), and which disproportionately targeted younger populations (ages eighteen to thirty-five), probably as part

of a strategy to silence the opposition's most energetic street demonstrators, have now resulted in the International Criminal Court opening a formal investigation into Maduro's state for committing crimes against humanity.

While these top-down factors have been essential to Maduro maintaining a grip on power, the bottom-up factors tell an important story about *chavismo's* partial collapse as a political movement. Despite the economic crisis, Maduro's popular support did not completely evaporate. He retained core support from his base, a group which represents around 20 percent of the population but generally provides a majority of *chavista* votes at election time. The adaptation of the communal councils into community brokers for state-provided crisis relief helped Maduro secure this bedrock of support (Abbott and McCarthy 2019: 101–106). The narrowing of the councils' sphere of activity from community self-governance to household relief may have in fact spurred greater interest in these local organizations. During the peak of the economic crisis, they represented one of the only available means for mitigating food insecurity. The persistence of the councils, whose participation is dominated by a 70 percent *chavista* majority, did also have salutary effect on *chavista* electoral participation (Abbott and McCarthy 2019: 104, 110). In this respect, changes to the pattern of governance in the councils, from partially pluralistic spaces of community self-help to primarily *chavista* spaces for community level crisis relief, mirror some of the broader changes in governance. The number of spaces subject to party-state influence declined but the degree of party-state control in those spaces increased.

In the long run, Maduro's decision to rig the presidential cost him his legitimacy of origin. When Maduro swore himself in for the 2019–2025 term, he opened the door to a challenge from an insurgent leader in the opposition, National Assembly president Juan Guaidó, who charged Maduro with usurping the presidency. Claiming the need to fill the void created by Maduro's usurpation, Guaidó then proceeded to proclaim an interim presidency, a thesis backed by the United States, Canada, many states in the European Union, and most Latin American states. Guaidó had legitimacy of origin as a congressperson, but the legitimacy of his interim presidency declined after he could not make good on his promise of using his position to convene elections in a short time span. Meanwhile, Maduro—who in 2019 had withstood a failed military uprising induced by Guaidó, severe economic pressure from US sanctions, and a botched paramilitary raid loosely connected to Guaidó's radical advisors—reestablished his authoritarian resilience by holding rigged National Assembly elections December 6, 2020. The established opposition parties abstained from the vote while dissidents from these parties ran on their own. Pro-Maduro parties won 91 percent of the newly expanded 277-member Congress.

Opposition parties disobeyed Guaidó's implicit calls for anti-government parties to abstain from the November 2021 regional elections for governors and mayors, and during the electoral process the European Union sent an electoral observation team to Caracas for the first time in fifteen years. The regime confirmed its authoritarian bona fides when the Supreme Court annulled the results of a razor-thin governor's race in Barinas, the state run by the Chávez family and the former president's birthplace. That move backfired when the January 2022 rerun of the Barinas vote saw an opposition politician win handily. That embarrassing outcome for the ruling party incentivized the regime to call on the electoral council to slam the window shut on incipient efforts to organize a recall referendum vote on Maduro, which had begun to pick up pace after the government suffered the loss in Barinas.

### ***Assessment 3: Militarized Autocratic Corporatism and Weak Party-State Governance***

Between 2015 and 2018 Maduro's institutional power grabs entrenched an authoritarian political regime. Moreover, the reliance on predatory military and economic elites, and widespread use of state violence to silence the opposition and raise the costs for future resistance, furnished his authoritarianism with a new trademark attribute: brutal repression. Beyond the state level, the restrictions that the economic crisis placed on his ability to govern resulted in weaker party-state governance, though that weakness did not translate into opportunities for pluralism, as Maduro was able to develop more authoritarian forms of clientelism to wield control during a period of extreme economic scarcity. The withdrawal of *chavismo* from society was not complete, however. The persistence of state-community interaction via the block-level communal councils helped ensure that *chavismo* would retain a degree of societal approval amid its evolution into a hegemonic minority.

## **Conclusion**

Venezuela and *chavismo* have experienced dramatic changes in recent years. After economic distress and harsh US sanctions prompted Maduro to accept an economic transformation that saw the state deepen its alliances with pro-government business groups, his rule became even less subject to popular voice, including those from within his own party, as his coalition of strategic supporters became the military and the business class, rather than the military and the popular classes. From 2017 to 2020, Maduro's model

of militarized corporatism contributed to both the de-institutionalization of the more legitimate elements of the *chavista* mass organizations and the bureaucratization of the party ranks, yielding a party elite that only seems to know how to govern as a hegemonic minority. Maduro's institutionalization of authoritarian rule has widened existing power imbalances. I have adopted an historical approach to underscore the extent to which these power imbalances have grown entrenched.

Three factors that negatively affect the prospect for an imminent return to democracy help illustrate the concrete impacts of living under an authoritarian regime in Venezuela. First, *chavismo* no longer commands a majority. After the oil shocks triggered an economic contraction that has seen the country's GDP contract over 70 percent between 2015 and 2020, *chavismo* under Maduro has a very low probability of winning an electoral majority if the electoral process allows popular opposition politicians or parties to participate. As a result, the incentives for democratic competition are very low. Second, extreme state fragility has gone hand in hand with the strengthening of authoritarian elites. Some elites are military officials that have controls over state businesses and or illicit economic activities involving illegal armed actors, some have been accused by U.S. authorities of being responsible for narco-trafficking's penetration of the highest levels of government, and some are probably corrupt in the conventional sense of being greedy about power. Third, during the economic crisis, the institutionalization of the Bolivarian project at the societal level resulted in both new forms of authoritarian clientelism in which ruling party-linked groups have preyed upon economically dependent populations as well as new forms of state-based and privately executed repression against poor segments of the population (United Nations High Commissioner for Human Rights 2019).

Fully capturing the differences between Chávez's institutionalization of an authoritarian governing project and Maduro's consolidation of an authoritarian regime will require further research on the creation and operational function of a model of social control that has helped spur a complex humanitarian emergency (Corrales 2020; Meucci 2020). Abroad, that humanitarian emergency, between 2015 and today, is marked by the refugee crisis of 6 million Venezuelans migrating to host countries throughout Latin America and beyond (International Organization for Migration, 2021). If the Chávez-era population outflow is included in the mass exodus calculation, then Venezuela has lost approximately 7.3 million members of its population, a total that represents around 25 percent of its population, only eight percent less than civil war-torn Syria has lost since 2011.

Likewise, we need to pursue new comparative lines of research about economic reform in authoritarian states to make sense of where the current iteration of Venezuela's petro-state could fit within the varieties of post-socialist authoritarian capitalism. While situating Venezuela within this

research field, it will also be necessary to consider whether the twisted liberalization path Maduro followed in 2019 could backfire or succeed. While it seems highly unlikely that Maduro will voluntarily pursue a sequence of *perestroika* and then *glasnost*, restructuring a broken system has proven to be a challenging, disruptive process for many authoritarian rulers before.

## Notes

1. In the Andean region, Rafael Correa of Ecuador and Álvaro Uribe of Colombia provide examples of recent leaders with strongmen profiles who pursued autocratization, but who also failed to develop far-reaching infrastructural power in terms of mobilizing state institutional capacity to reshape civil society–state relations. Peru’s Alberto Fujimori is a different case that nonetheless illustrates a similar point. He pursued neoliberal autocratization and mobilized the security apparatus to remake the civil society landscape coercively. However, Fujimori’s strategies of coercion did not translate into state institutions expanding their scope of influence over society.

2. It is plausible to argue that the traditional parties’ willingness to reform the constitution with the involvement of Congress was simply a ploy to bog the process down in endless legislative debate.

3. The same process of replacing the national Congress with an exclusively pro-Chávez National Legislature took place at the level of the country’s state legislatures.

4. Trinkunas 2005.

5. Millman 2000.

6. Chávez, *Aló Presidente* no. 71 (June 2001).

7. Former president of Colombia César Gaviria, the then secretary-general of the OAS, did invoke the Inter-American Democratic Charter in the aftermath of the failed coup against Chávez. However, the process generated controversy. Venezuela was not suspended from the OAS during the interim government headed by Pedro Carmona. When the coup took place, most member states of the OAS happened to be gathered at a meeting of the Rio Group—an alternative body to the OAS, which excluded Canada and the United States. The group did not call for Chávez to be restored to power, though at the time information suggested he had resigned the presidency. Meanwhile, Gaviria convened a marathon session at the OAS. The resolution called for Gaviria to undertake a fact-finding mission, which resulted in the OAS playing a two-year role in facilitating national dialogue.

8. According to the International Monetary Fund, Venezuela suffered an 8.9 percent decline in gross domestic product in 2003 and a 7.8 percent decline in 2004. See <https://www.imf.org/external/datamapper/profile/VEN/WEO>.

9. During one of the many signature drives to active the recall referendum, Chávez said: “Whoever signs against Chávez . . . their name will be there, registered for history, because they’ll have to put down their first name, their last name, their signature, their identity card number, and their fingerprint” (Hugo Chávez, nationally televised address, October 17, 2003, quoted in Hsieh et al. 2011: 196).

10. Complaints that pro-opposition actors mirrored the discrimination practice of screening pro-government voters out of benefits or employment came from government leaders. Opposition leaders did have access to many petitioners’ identities.

11. Chávez, January 17, 2007, quoted in McCarthy 2016: 203.

12. El-Troudi, quoted in McCarthy 2016: 197–198. It should be added that el-Troudi’s report, in calling for the establishment of a new revolutionary state base, noted the existence of “allies and opponents” in every public institution and the need to identify who “plays in favor and against the revolutionary process” (2005: 57).

13. Ramírez’s emphatic “*rojo, rojito*” phrase became a common refrain for chavistas to distinguish true chavistas from superficial ones. Rafael Ramirez, “PDVSA es Rojo, Rojita, de Arriba a Abajo,” *Transparencia Internacional Venezuela*, February 13, 2009, <https://www.youtube.com/watch?v=IWYDBNMxKI>.

14. Edgardo Lander, “El Referéndum Sobre la Reforma Constitucional: El Proceso Político Venezolano Entra en una Encrucijada Crítica,” mimeo, 2007. Lander’s paper was also published in the *Revista Venezolana de Economía y Ciencias Sociales* 14, no. 2 (May–August 2008).

15. The questions for the referendum were divided into two blocks and voters rejected Block A by 1.41 percent and Block B by 2.11 percent.

16. Human Rights Watch, “A Decade Under Chávez, Political Intolerance, and Lost Opportunities for Advancing Human Rights in Venezuela,” September 2008, <http://hrw.org/reports/2008/venezuela0908>.

17. The disenfranchisement of Ledezma as metropolitan mayor was not an isolated event. In 2012 Chávez appointed parallel authorities that directly competed with elected opposition governors in five states and followed the same script for undermining some opposition-controlled municipalities. In the populous state of Miranda, governed by opposition leader Henrique Capriles, the government established CorpoMiranda, a parallel authority appointed by the executive that received funds directly from the national government, instead disbursing resources directly to the governor’s offices. (Inter-American Commission on Human Rights, *Annual Report 2009*, Organization of American States, art. 474, <http://www.cidh.org/annualrep/2009eng/Chap.IV.f.eng.htm>).

18. Inter-American Commission on Human Rights, *Annual Report 2011*, Organization of American States, art. 412, <https://www.oas.org/en/iachr/docs/annual/2011/TOC.asp>.

19. *Reuters* 2013.

20. Genaro Arriagada and José Woldenberg, “The Elections in Venezuela, October 7, 2012,” September 2012, [https://www.wilsoncenter.org/sites/default/files/Venezuela\\_Elections\\_Summary.pdf](https://www.wilsoncenter.org/sites/default/files/Venezuela_Elections_Summary.pdf).

21. Carter Center, “Study Mission to the 2012 Presidential Election in Venezuela,” October 2012, [https://www.cartercenter.org/resources/pdfs/news/peace\\_publications/election\\_reports/venezuela-2012-election-study-mission-final-rpt.pdf](https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/venezuela-2012-election-study-mission-final-rpt.pdf).

22. Michael McCarthy, “Guest Post: Poisoned Chalice for Maduro and Chavismo,” *Financial Times*, April 15, 2013, <https://www.ft.com/content/b44f4cdf-55ba-3f6f-9d9e-455263d6bc4b>.

23. To offer one salient example, the president of the National Electoral Council, Tibisay Lucena, attended Chávez’s March 6 state funeral proceedings wearing the “4F” armband that partisan members of the ruling elite wore to commemorate Chávez’s failed February 4, 1992, coup. See *El Comercio*, “La ‘chavista’ Tibisay Lucena llega al simulacro del voto electrónico,” January 30, 2014. <https://www.elcomercio.com/actualidad/politica/chavista-tibisay-lucena-llega-al.html>.

24. Puente and Rodríguez calculate that the state’s dependency on oil exports for the foreign exchange income used to finance imports rose to 96 percent in 2012, 2013, and 2014. The percentage reflected an increase over the preceding Chávez period when oil represented around 90 percent of exports (2020: 142). By comparison, in the late 1990s oil represented between 60 to 70 percent of exports (Monaldi 2015: 6).

25. Infobae, “Denuncia Malversación de USD 300.000 Millones en la Última Década en Venezuela,” February 2, 2016, <https://www.infobae.com/2016/02/02/1787191-denuncian-malversacion-usd-300000-millones-la-ultima-decada-venezuela>.

26. According to Transparency International rankings, since 2012 Venezuela has moved from 165th place on the index (out of 180) to 176th for 2020, meaning it has been perceived as one of the fifteen most corrupt countries in the world for eight years running. Transparencia Venezuela, “Aumenta Percepción de Venezuela como País Corrupto,” January 28, 2021, <https://transparencia.org.ve/aumenta-percepcion-de-venezuela-como-pais-corrupto>.

27. Amnesty International, “Trial of Opposition Leader Leopoldo Lopez Raises Concern About the Independence of the Justice System in Venezuela,” July 2014.

28. Venezuela has ranked last on the World Justice Project’s Rule of Law Index since 2015 (World Justice Project, “Country Insights, Venezuela,” <https://worldjusticeproject.org/rule-of-law-index/country/2020/Venezuela%2C%20RB>).

29. Diamant and Tedesco 2021: 84–88.

30. Hausmann 2018.

31. Maduro also survived a drone assassination attack in August of 2018.

# 4

## Bolivia: Paradoxes of Inclusion and Contestation

*Santiago Anria and Jennifer Cyr*

THE SHOCKING RESIGNATION OF EVO MORALES—AND THE AUTHORITARIAN shift that followed during the interim government headed by Jeanine Áñez—generated renewed interest in the nature of Bolivia’s political regime. When the results of the country’s general election came in on October 20, 2019, Morales appeared headed for a controversial fourth term in office.<sup>1</sup> Yet, almost immediately, allegations by domestic and international actors of electoral fraud overshadowed his victory.<sup>2</sup> Morales ultimately resigned from office, after weeks of violent mass protests, the loss of important allies, and a nation-wide police mutiny. He left just after the army chief publicly “suggested” his resignation. For some observers, Morales was the victim of a civil society coup. For others, his regime had turned increasingly authoritarian, clinging onto power with little respect for checks and balances and opposition and minority rights. His ouster suggested to some observers a move toward—or at least the possibility of—a more liberal-pluralist version of democracy. For Morales’s loyalists, the interruption of the constitutional order threatened to undermine a hard-fought effort to “re-found” the republic along plurinational lines. Whether there was fraud or not, fraud *allegations* were politically consequential in dramatic ways. They became a focal point for the opposition, both political and societal, to unite and force Morales out of office.

With Morales at the helm, democracy in Bolivia was packed with tensions, ambiguities, and paradoxes. On the one hand, elections were largely competitive. Indeed, in some local and regional contests—even in Movement Toward Socialism (MAS) strongholds—the governing party lost elections and this forced Morales to share power territorially. On the other,

Morales moved to strengthen the presidency and his own dominance over national government, and at times treated opponents, including former allies, with raw hostility. This juxtaposition of competitive elections with the personalization and at times abuse of power led some to conclude that Bolivia's regime under Morales and the MAS was, like the other "Bolivarian" regimes in contemporary Latin America, especially those of Venezuela and Ecuador, a clear example of a competitive authoritarian regime (Levitsky and Loxton 2013; Weyland 2013; Mayorga 2017; Sánchez-Sibony 2021).

We think this characterization goes too far. Bolivia's political regime under Evo Morales deteriorated with respect to horizontal checks and balances on presidential authority, institutionalized pluralism, and democratic contestation at the national level. It also experienced, however, robust improvements with respect to the inclusion, participation, and the mass empowerment of previously marginalized social groups. Assessments of regime dynamics overlook these latter advances at their own peril. To be sure, as Mainwaring (2012) notes, high participation and regular elections are possible in nondemocratic regimes. It is hard to imagine, however, that truly competitive elections could occur in an authoritarian setting. In addition to losing races in important cities and governorships, recent events in Bolivia—including a highly contested presidential election in 2019—demonstrate that, to a large extent, elections remained competitive.

Morales assumed power in 2006. His government was the first in Bolivian history to represent and empower the country's Indigenous majority. While in office, Bolivia experienced deep social and political change—a massive reconfiguration of the political order and institutions. The process that led to his election produced a strong party, the MAS, formed and shaped by Indigenous social protest movements. This party "of movements" is a novel feature in the country and an unusual phenomenon in the region. Indeed, given its bottom-up logic of political mobilization and leadership formation, the label "populist" does not easily apply to Morales and the MAS.<sup>3</sup>

With the MAS in power, Bolivia also produced a new constitution that expanded citizenship rights and helped to produce a critical shift in domestic power relations. Groups linked to the MAS, especially those that were previously on the margins of social and political life, obtained a greater say in determining who gets what, when, and how, by gaining representation in elected and appointed positions. They subsequently shifted policy in a more redistributive direction (Anria 2018, 2016). The importance of this evolution to a more inclusive form of democracy, one with high levels of participation and lower differences across social groups as well as lower social and economic inequality (à la Huber, Rueschemeyer, and Stephens 1997), cannot be overstated. It constituted an exceptional change in a society deeply marked by centuries of colonialism and White minority rule—a society characterized by profound ethnic divisions and exclusion.

The literature on competitive authoritarianism has made important contributions to our understanding of regime dynamics in Latin America and beyond. Still, it pays scant attention to the participatory dimension when evaluating these dynamics. Dahl's (1971) two-dimensional conceptualization of polyarchy is helpful to recall that democracies (or polyarchies) are not just about public contestation. They are also shaped by modes of participation. As Dahl (1971: 4) recognizes, these two dimensions—contestation and participation—operate independently of each other and cannot always be jointly maximized. In prioritizing the former over the latter, the literature on competitive authoritarianism helps us see the real authoritarian distortions under Morales's presidencies. Ultimately, however, it provides only a partial lens for analyzing how the Bolivian regime evolved with the MAS in power, particularly when MAS rule is placed in the longer arc of its history.

More critically, that literature offers insufficient tools to understand the nature of the on-going reactionary response of the country's traditional elites, which regained the reins of state power in Bolivia after Morales's ouster. Displaced by the MAS for more than a decade, the new government—one entrusted as a caretaker only to call new elections—nevertheless aggressively attempted to roll back the inclusionary policies that were a hallmark of Morales's presidencies and also restore long-standing hierarchies. Theirs was hardly a process of democratic restoration, nor was it liberal, and yet it was embraced as such by right-wing sectors.

In what follows, we analyze regime dynamics in contemporary Bolivia as a contribution to a scholarly debate on regime types that is too often partial or superficial. Rather than using a static regime categorization and identifying "the" moment of rupture, we identify persistent, historical weaknesses in the realm of democratic contestation and institutionalized pluralism in Bolivia. We also trace advances in the direction of more inclusive and participatory forms of politics that produced important shifts in domestic power relations—the empowerment of previously excluded groups. Greater political inclusion, in turn, supported significant progress toward social and economic equality.

We note, however, that advances in this dimension were not always part of a virtuous cycle. More often than not, they were in tension with concentrated political authority in the hands of the executive—a dynamic identified in this volume (see Chapter 1), following O'Donnell, as "executive encroachment." Importantly, we compare present-day regime dynamics in the country with those of the twenty-year period of pacted democracy that preceded Morales's ascent to power. We demonstrate that the country's struggle to jointly promote contestation and participation is not new and often entailed critical trade-offs: the more of one, the less of the other. Nevertheless, the politics that succeeded Morales's ouster were marked by

regressions along both axes—less inclusion and also less contestation. The MAS’s electoral comeback in 2020 created the conditions for regime re-equilibration—a first step toward re-democratization, and this time with more moderate and less polarizing leadership. Only time will tell if and how that process will unfold.

### **Morales and the MAS in Power, 2006–2019**

Evo Morales was inaugurated as Bolivia’s president in 2006 and was reelected in landslides in 2009 and 2014. During this time, Bolivia’s political arena experienced profound change. This includes the writing of a new constitution, approved in 2009, which sharply changed the country’s political trajectory. The constitution centralizes power in the hands of the executive and also prioritizes the construction of more inclusive institutions. The new constitutional order leaves a great deal of discretionary authority in the hands of the president. It also extends the effective rights of citizenship to those with no status and power by embracing their representation and boosting public input in decisionmaking. For example, the constitution establishes new processes to formalize participation, such as the institutions of prior consultation and Indigenous autonomies (Falleti and Riofrancos 2018; Tockman and Cameron 2014). Grassroots movements and Indigenous communities have used some of these mechanisms successfully to gain greater control over resources.

Morales and the MAS performed strongly in every election between 2006 and 2014. The MAS consolidated as Bolivia’s only party with truly national reach and as the dominant party in congress. But as the Bolivian economy slowed in 2014, the electoral strength of the MAS declined as well, and in 2015 the MAS lost a number of mayoral and gubernatorial races. The biggest blow to Morales and the MAS happened in February 2016. Opposition forces temporarily united and captured 51.3 percent of the referendum vote, just enough to defeat Morales’s attempt at reelection for a third time. At that time, the MAS had to choose whether to find a new presidential candidate or to look for alternative ways to enable Morales to run again in 2019. Lacking a viable successor, it opted for the latter option. The MAS submitted a petition to Bolivia’s Constitutional Court to remove constitutional term limits and obtained favorable results.

Morales’s unwillingness to respect the referendum results is a clear instance of authoritarian behavior (à la Levitsky and Ziblatt 2018: 23). And, while Morales centralized power during his thirteen years in office (a fact we examine in more detail below), his willingness to alter what O’Donnell (1994) called the “hard facts” of a constitutionally limited term in office crossed a new line. Nevertheless, we would be remiss to conclude that

Bolivia's regime has been "competitive authoritarian" since early on in Morales's tenure (Levitsky and Loxton 2013; Weyland 2013; Sánchez and Sibony 2021) or even after 2016, during Morales's third term (Velasco-Guachalla et al. 2021a: 64).<sup>4</sup> For one, several quantitative measures of democracy concur that Bolivia remained democratic after Morales took office in 2006. Its ranking on the Freedom House index of civil and political rights only slightly changed between 1998 (the earliest year for which we have data) and 2018. The country's freedom rating dropped by 1 point (from 2 to 3) between 2002 and 2004, and its rating on civil liberties remained unchanged (at 3) across the entire period for which data are available. The country declined the most in terms of Political Rights, moving from a 1 in 1998 to a 3 by 2018. Notably, however, this change, as with the freedom rating, occurred between 2002 and 2004, before Evo Morales assumed power.

Other quantitative measures largely corroborate these findings. The Varieties of Democracy (V-Dem) liberal democracy index for Bolivia has experienced only a moderate decline over the past decade (from 0.47 in 2006 to 0.38 in 2016, although it had dropped to 0.23 by 2020, likely due, in great part, to the 2019 crisis and Morales's ouster). The Polity V scale has also dipped only slightly (from +8 in 2006 to +7 in 2018). All these measures agree that the liberal component of Bolivia's democratic regime under Morales had strong deficiencies, a point we will consider in more detail below. None of them, however, supports the claim that Bolivia was no longer democratic under the MAS. Critically, though marred by irregularities and the constitutionally prohibited candidacy of Evo, elections in Bolivia remained competitive. Bolivia, therefore, remained (minimally, by the definitions in this volume) an electoral democracy—that is, until democracy was interrupted in 2019 with Morales's ouster. Although a number of V-Dem election indicators—such as the autonomy of the election management body and the degree of free and fair elections—show a decline over time, these were not, by themselves, sufficient to mark a transition to nondemocracy. Additionally, quantitative measures reinforce the observation that Bolivia's democracy was deficient even before Evo Morales came to power. We examine this point in more detail now, in an effort to put democracy under Morales in historical perspective.

### Major Trends Before Morales

The weakness of democracy is nothing new in Bolivia. Indeed, there were major issues with Dahlian polyarchy between Bolivia's transition to democracy in the 1980s and Morales's ascent in 2006, including issues of contestation (such as excessive presidential power, low quality in the legislative branch, little deliberative capacity of representative institutions, and lack of

judicial independence) and participation (the exclusion of large segments of the population from representation and decision-making). The malaise was clear when examining “objective” indicators and, also, by looking at citizens’ perceptions. Based on survey evidence presented in Stoyan (2014: 223), citizens were clearly disgruntled with Bolivia’s democracy before Morales came to power. In this section, we offer further contextualization.

Once democracy was restored in 1982, elections for the presidency and Congress remained an elite affair. Because no presidential candidate won a majority of the vote, elections were decided by Congress rather than through direct popular vote.<sup>5</sup> One could argue that this arrangement enhanced horizontal accountability (from the executive to parliamentary elites) even as it weakened vertical accountability (ties to voters). However, in practice, “pacted democracy,” as Bolivia’s system came to be called, also weakened checks and balances across branches of government.

For example, between 1985 and 2005, no presidential candidate captured a majority of the popular vote. Consequently, each president came to power only after forging a pact with other parties in Congress. Presidents formed coalitional pacts with at least one other “traditional” party. These parties included the National Revolutionary Movement (MNR), the Revolutionary Left Movement (MIR), and Nationalist Democratic Action (ADN).

The president and his party went to great lengths to preserve the pact that brought him to power. The use of patronage employment (*cuoteo*) was widespread. In typical bureaucratic-patrimonial style, the president relied on his privileged access to state coffers and state jobs to compel loyalty. In practice, the distribution of public sector jobs was the “only tangible compensation for those parties that entered into the coalitions” (Calderon and Gamarra 2003: 96). Pact-making turned into closed-door negotiations among party leaders fighting over ministries and public sector positions (Mandaville 2004: 13). The logic of *empleomania* drove party competition (Gamarra 1997: 376–8).

Pacted democracy enabled policymaking. Between 1985 and 2005, Bolivia implemented a host of major economic, social, and political reforms. It also guaranteed stability. Institutional inducements fostered party moderation and incentivized joining rather than opposing coalitions. However, the pacted arrangement also generated perverse consequences that weakened both the liberal and participatory dimensions of Bolivian democracy. For one, the president’s guaranteed legislative majority meant he could largely bypass Congress in the policymaking process (Gamarra 1997: 375). Presidents relied on technocrats to formulate policy and governed with the extensive use of decrees and scant legislative debate.<sup>6</sup>

Moreover, although pacted democracy produced presidents from the revolutionary left (MIR), the center right (MNR), and the more conservative right (ADN), in practice, all presidents advocated similar economic and social pro-

grams. For example, leftist president, Jaime Paz Zamora (MIR, 1989–1993), strengthened rather than rolled back a severe structural adjustment program implemented by the previous administration (Grindle 2003: 324).

As a result of the controlled policy space and neoliberal convergence (Roberts 2015: 274), the left and right distinctions that initially separated the MNR from ADN and MIR lost meaning (Centellas 2007: 183). Vote choice decreased significantly. Pacted democracy, which was so important for governance, strongly undermined democratic representation. The “promiscuous powersharing” (Slater and Simmons 2013: 1366) between the three parties enhanced coordination (some might say collusion) among political elites. It also made those elites less accountable to voters.

It bears mentioning here that collusion amongst the longstanding political elite in Bolivia impacted Evo Morales directly when he was a congressman (1997–2002). Specifically, the controversial legislator was accused of inciting violence against government coca eradication forces in the Chapare and expelled from Congress in January 2002. Of the 130 members in Congress at that time, a full 104 voted to strip him of his position (van Cott 2003: 772). An alleged objective of the expulsion was to neutralize the growing popularity of Morales.<sup>7</sup> Ironically, the move seemed to have the opposite impact. In the following general election, the three traditional parties entered into collapse, and Morales was elected president in an unprecedented victory (Cyr 2017).

Pacted democracy also tilted the playing field toward candidates from the three largest parties. Congress passed laws that benefited those parties over their newer, resource-poor counterparts. Legislation in the late 1970s, for example, dictated that parties that could not capture at least 50,000 votes in an election had to pay their share of ballot printing costs—an expense that was prohibitive for smaller parties (van Cott 2000: 166). Congress passed a law in 1986 mandating that only the three largest parties could choose members of the national Electoral Court (Calderón 1996: 39). The 1997 law on political parties raised the minimum vote share a party needed to retain its legal standing from 0.5 to 2 percent (Lazarte 2006: 246). Each of these laws benefited the traditional parties over their competitors.

In all, there were major issues regarding contestation during the pacted democracy era. Separation of powers, and especially between the executive and legislative branches, was anemic. Congress’s lawmaking function was bypassed, strengthening the power of the executive branch. Elections were free and fair between 1985 and 2005, but the electoral rules were carefully crafted to benefit certain parties. The playing field, as scholars of competitive authoritarianism would call it, was clearly tilted to favor some candidates over others.

If democratic contestation was deficient before Morales came to power, so too was participation. The cartelized party system (Katz and Mair 1995)

meant that constituent interests that extended beyond a clearly delimited policy space were neglected. For example, opponents to structural adjustment policies had little recourse during the twenty years of pacted democracy. These policies caused not only “profound economic and political exclusion of the popular sectors, deeply threatening their livelihood” but their hegemony also left them with no “defense within established political institutions” (Silva 2009: 109).

Even legislation favorable to greater participation and inclusion, like the 1994 law on popular participation, was limited in scope. This law overhauled subnational politics in Bolivia, creating hundreds of new municipalities and instituting local elections. The multiplication of local elections helped to mobilize subordinate groups, especially in rural areas (van Cott 2005: 69). Municipal councils were soon filled with candidates from Indigenous movements, peasant unions, and rural and urban neighborhood associations (Kohl and Farthing 2006).

The law did little, however, to improve participation and inclusion in national politics. By the end of the 1990s, massive popular resistance emerged to challenge formal political institutions and, in particular, political parties that dominated national government. In the absence of formal institutional channels for dissent, an upsurge of Indigenous groups, coca growers, labor unions, and peasant organizations generated a wave of mass protests that contested neoliberal policies and pacted democracy (Silva 2009). Societal backlash was eventually channeled politically through the MAS, which defeated the traditional parties in 2005 and propelled Morales to the presidency.

## **Continuity and Change Under Morales**

Since Morales came to power, Bolivia’s regime has become more illiberal. Power became more concentrated in an executive administration that often treated opponents and the press with hostility. Expert assessments of Bolivia, via the V-Dem indicators, note there was an important decline in press freedom. The media’s ability to report freely during election season experienced a sharp decrease; its freedom from government censorship and harassment declined; and its own efforts to avoid self-censorship weakened.

Moreover, many political rights in the country weakened (see V-Dem data version 7), another indicator of decay along the liberal dimension of Bolivian democracy. The protection of political liberties weakened slightly between 1998 and 2017. The “cleanliness” of elections declined, and elections became gradually less “free and fair.” While opposition autonomy increased slightly between 1998 and 2016, this too experienced a sharp decline after 2017.

Institutions in Bolivia under Morales were inefficient, and many liberal rights were poorly safeguarded. Power also grew increasingly personalized. The MAS held majority control in Congress throughout Morales's tenure. Moreover, Morales became uniquely important in the MAS. Rather than cultivate a new leader for the party, in 2014, the MAS declared Morales indispensable. Meanwhile, the opposition failed to produce a viable electoral alternative at the national level.<sup>8</sup>

Overall, Bolivian democracy under Morales became increasingly illiberal. Yet, as we have seen, illiberalism was not new to the country. The concentration of power in the executive branch between 1985 and 2005 also weakened the republican dimension of democracy. Congressional majorities were maintained via patronage, not deliberation. Separation of powers in Bolivia was stunted before Morales came to power.

After Morales assumed office, illiberal and anti-republican trends intensified. A growing concentration of power in the executive was accompanied, however, by important strides toward greater inclusiveness. In Bolivia, structural inequalities and colonial legacies underpin regime dynamics. Political inclusion cannot be taken for granted. In what follows we examine the improvements made along this dimension of a polyarchy and underscore the representative and policy impacts that greater inclusion implies.

## **Inclusion and its Consequences**

Inclusion is a key democratic good; it entails a move toward less political inequality (Dahl 1971; Rueschemeyer, Stephens, and Stephens 1992). In the case of Bolivia, lower-class inclusion during the MAS government meant that the formal representation of previously excluded groups increased. This was true at both the national and subnational levels. Second, and as a corollary to the representative outcome of inclusion, the arrival of new groups, voices, and faces to governing bodies impacted the kinds of policies pursued. Under the MAS, dramatic improvements occurred with respect to social spending and in terms of different developmental outcomes.

### *Inclusion and Greater Representation*

A major advance in terms of political inclusiveness relates to the composition of representative institutions. While reforms in the 1990s, like the 1994 law on popular participation, created opportunities for the incorporation of popular groups into municipal government (Kohl 2003), the formation of the MAS, and its subsequent ascendance to national power, served as a vehicle for their inclusion on a national scale. An early turning point was the 2002 national election, when the MAS won significant minorities in both houses.

These electoral victories enabled the arrival of representatives from previously excluded groups, particularly peasants, into Congress.<sup>9</sup> From that point on, Bolivia experienced greater circulation of political elites. Actors of more diverse ethnic, class, and ideological composition have gradually, and peacefully, displaced the hitherto dominant political actors.<sup>10</sup>

This trend accelerated as the MAS gained national power. Its experience in office led to central changes in the political arena, including wider regime responsiveness, representation of historically marginalized social actors, and an expansion of both individual and collective rights to Indigenous peoples. Changes were crystallized *de jure*, in the country's 2009 Constitution, and *de facto*, in everyday practices within existing and new institutions. The constitution prioritizes, for example, the construction of a more inclusive and less colonial society. Bolivia was renamed the Plurinational State of Bolivia, in recognition of its plurinational character. It also recognized different forms of democracy (representative, participatory, and communitarian) and created new regimes of participation, such as Indigenous autonomies.<sup>11</sup>

Some of the most notable transformations under the MAS took place within existing institutions.<sup>12</sup> Subordinate social actors, including Indigenous peoples but especially peasant-based groups, experienced an increase in power and greater access to the state. This increased access to power was visible in their massive inclusion in governing and, particularly, in their penetration of representative institutions at all levels (national, departmental, and municipal). Using O'Donnell's term, Morales's Bolivia became an "incorporating" regime (1986: 240). Such a regime is defined as one "that purposely seeks to activate the popular sector and to allow it some voice in national politics" or one that "without deliberate efforts at either exclusion or incorporation, adapts itself to the existing levels of political activation and the given set of political actors" (O'Donnell 1986: 240). This, however, needs to be elaborated further.

The social composition of the Plurinational Legislative Assembly (as Congress was renamed in the 2009 constitution) changed dramatically after Morales came to power (Gonzales Salas 2013). This was due in great part to how the MAS selected (and still selects) candidates for elective office. As Anria (2018: chap. 3) demonstrates, the MAS, even as it consolidated power and became a dominant party, has remained open to bottom-up influence in the realm of candidate selection, particularly in districts where civil society is densely organized, united, and politically aligned with the MAS. A greater degree of grassroots control over the selection of candidates was consequential for Bolivia's political process: it led to the large-scale arrival of representatives nominated by popular groups, some of which acquired great mobilizational and electoral power.

A study by Zegada and Komadina (2014: 93–94) reached similar conclusions. It found that not only have the socio-demographics of elected rep-

representatives changed since 2006—with the growing presence of women, as well as Indigenous, peasant, and urban-popular groups—but that under Morales’s tenure the most important attribute for candidate nomination was having experience as a leader of a grassroots social organization.<sup>13</sup> While the percentage of middle-class professionals decreased from 48.7 percent in the 1993–1997 legislative period to 17.7 in 2010–2014, the percentage of peasants, artisans, and formal and informal sector workers—groups strongly linked with the MAS—grew from 3.9 percent to 26.3 percent in the same period (Anria 2018: 92).<sup>14</sup> Similar trends can be observed in the executive branch, the judiciary, and the state bureaucracy (Soruco Sologuren 2015; Wolff 2018; Anria 2018). In short, the social and demographic profile of elected representatives and public officialdom came to feature more peasants, Indigenous people, and members of urban-popular groups. This was an exceptional change for a society characterized by deep ethnic divisions and social exclusion.<sup>15</sup>

On whether these newly included groups expanded influence over the policy process, Zegada and Komadina (2014) find that the growing presence of Indigenous representatives coming from identity-oriented movements has been more symbolic than substantive.<sup>16</sup> In fact, the quality of political representation—and of representative institutions more generally—may have not increased dramatically, but legislative outcomes favored a broader social base (Silva 2018; Conaghan 2018; Niedzwiecki and Anria 2019). At the same time, though movements rooted in identity have not attained better-quality representation, the growing presence of well-organized groups rooted in production or economic activity in the formal or informal labor sectors (coca growers, cooperative miners, transportation unions, artisans, and street vendors, among others), ensured a more substantive representation of their interests (Anria 2018; Wolff 2018). One way this substantive representation occurred was via an informal “social veto” that the MAS’ social movements exercised when it came to proposed legislation (Anria 2018: 131). The privileged position of social movements within the MAS allowed these groups to “obstruct or modify legislation” when it threatened their interests (Anria 2018: 142). Examples of these checks on executive power via congressional oversight happened frequently, as when representatives from transportation unions and street traders challenged the constitutionality of an executive-proposed asset recovery law in 2013.

Another example of the real-world impact that accompanied the inclusion of new voices was evident in the operation of specific ministries of interest to the peasant and Indigenous organizations linked to the MAS—an area where previously marginalized groups began to wield creative policy formulation capacities. Specifically, powerful actors linked with the MAS could dispute control over several ministries. The Ministry of Rural

Development and Land is a case in point. As Silva (2018: 48) notes, the ministry had “the largest number of high- to mid-ranking staff drawn from the social movements at the core of the MAS (including the minister and the undersecretaries).” These movement organizations, in turn, could participate in the formulation, negotiation, and implementation of public policies. An example is the law on productive revolution, which was brought to the agenda and pushed forth by the United Confederation of Rural Laborers of Bolivia (CSUTCB), Bolivia’s largest peasant movement (Anria 2018: 146; Silva 2018: 48–49).<sup>17</sup>

To be sure, the checks on power and levers of influence occurred outside of the Plurinational National Assembly and often were informal in nature. In fact, vocal dissent among MAS *diputados* in the legislative body was prohibited and even sanctioned, and many legislators understood that they were unable to independently introduce legislation (Anria 2018: 141). Moreover, as Jonas Wolff (2018: 9) notes, greater political inclusiveness in Bolivia under the MAS was “far from egalitarian or universal” and even brought about new exclusions. For one thing, the national peasant organizations that founded the MAS enjoyed privileged access to and direct participation in policymaking, whereas identity-oriented Indigenous movements (like the National Council of Ayllus and Markas of Qullasuyu CONAMAQ and the Confederation of Indigenous Peoples of Bolivia CIDOB) were comparatively sidelined from the policy process (Silva 2017, 2018). At the same time, certain policy spheres remained somewhat “sealed” and offer little room for subordinate social actors to exert meaningful influence, such as economic policy (Anria 2018: 144).

The impact of inclusion on representation was not just felt at the national level, however, where the behavior of an increasingly powerful executive can constrain legislative autonomy. It was also felt strongly at the subnational level, where greater representation of previously marginalized groups consolidated since the early 2000s, but especially since the MAS came to power (Komadina and Zegada 2014: 222). These representatives enjoyed comparatively higher levels of autonomy from the national-level executive than representatives in the Plurinational National Assembly (Komadina and Zegada 2014: 207).

Overall, inclusiveness in politics under Morales was real, even if institutional checks and balances on presidential authority were weak. Larger numbers of Bolivians enjoyed rights of citizenship and greater capacity to participate in the policy sphere. Subordinate groups gained increased access to the state. They could shape policymaking around issues, claims, and objectives of their concern. They did so via representation (by penetrating representative institutions and state bureaucracies) and via mobilization (by coordinating pressure on the streets). These newly included groups did not have complete control over the national agenda (Silva 2018: 49) and their

influence varied by policy area (Anria 2018: 131). Still, their interests, demands, and priorities became increasingly harder to ignore. And it is undeniable that, as a result of the MAS's turn in power, these groups earned a much greater say in determining who gets what, when, and how—far greater than they had in the past. Inclusion, in short, gave rise to a “new normal” of more inclusive institutions in the Bolivian political arena. Any outright attempt to roll back these inclusionary gains by future governments will risk sending the country down an uncertain road of political conflict.<sup>18</sup>

### *Inclusion and Policy Outcomes*

The aforementioned emphasis on formal representation and informal influence begs the question: So, what? Beyond the symbolic importance of a more diverse political elite, has greater inclusion of marginalized groups and voices had a demonstrable impact on life in Bolivia? We suggest that it has. The experience of the MAS in power resulted in important shifts in domestic power relations at the state and social levels that empowered large segments of the traditionally subordinate population. Those shifts led to the development of more inclusive modes of political and economic decision-making and greater regime responsiveness to the interests of previously marginalized social actors, especially the many Bolivians of Indigenous, non-European heritage, who make up more than half the population.

Greater inclusion encouraged successive MAS governments to advance an aggressive agenda of expansive social policy (Niedzwiecki and Anria 2019). As a reflection of the MAS's commitment to expansive social policy, public spending on basic infrastructure, health, education, and to a lesser extent, social security accelerated substantially when compared to the 1990s (and, also, to Latin America's “top performers,” according to Huber and Stephens 2012: 123). Spending on education, for instance, expanded dramatically, and important efforts were made to improve primary and secondary education. Bolivia also increased expenditures on public health care, nearly doubling its spending as a percentage of gross domestic product (GDP). Important efforts were also made to expand preventative care and to promote universalism and the inclusion of informal workers into the health care system, which made health reforms highly progressive.

While public expenditure tells us something, it does not tell the full story. The allocation of resources is also important. High taxes on extractive industries in a context of booming international prices helped the MAS to fund generous transfers and social policy innovations with high redistributive impact. These included a universal noncontributory pension, conditional cash transfers to low-income families with children, and for pregnant women. To be sure, not expanding the tax base by incorporating evaders and avoiders into the tax structure, and taxing economic elites, however, places a question

mark on the fiscal sustainability of these programs. And, in fact, the literature on social policy reform makes a strong case for social policies being more sustainable when they are financed through general income or sales taxes. Politically, these *bonos* promised to generate strong policy legacies making them harder to reverse without at least producing a furious reaction from organized actors determined to defend what they previously gained—or without generating great levels of political conflict. Although they are modest transfers, they directly benefit broad segments of society, and they have had great impact. Notably, in the 2019 presidential campaign, both major candidates—Carlos Mesa and Evo Morales—promised to maintain and extend these programs.<sup>19</sup>

Poverty also declined dramatically—it dropped from 60 percent in 2002 to 27.8 percent in 2018 (ECLAC 2019: 118)—and Bolivia experienced a notable expansion of the middle class (Shakow 2014; Pellegrini Calderón 2016). Especially noteworthy, however, are the trends in inequality reduction. Evo Morales and the MAS managed the improbable feat of registering one of South America’s steepest drops in the Gini index on income inequality between 2006 and 2018 (ECLAC 2019: 82). Whereas economic growth was one of the primary drivers of poverty reduction during the 2000s, it was not the only factor responsible for this pronounced decrease in inequality. Transfers and social investment helped to explain this reduction (Anria and Huber 2018). Greater inclusion, in short, had clear policy consequences and effects on the distribution of resources. It supported the lowering of social and economic inequalities.

In all, Bolivia’s political regime under Morales and the MAS clearly experienced dramatic transformations. It changed, as we have shown, across two different axes: the more liberal dimension of public contestation and also that of participation and inclusion. These two dimensions were not always part of a virtuous cycle, however. Greater inclusion and empowerment of subordinate groups had positive feedback effects and helped enable progress toward greater social and economic equality, thereby generating conditions conducive for a shift from a “formal” to a “deeper” democracy (e.g., Huber, Rueschemeyer, and Stephens 1997; Roberts 1998). In a country long characterized by exclusion, this historically unprecedented progress toward greater equality altered the political power game for the foreseeable future (Crabtree 2020: 389). Still, the weakening of public contestation, the disrespect of checks and balances and opposition rights, and the growing concentration of authority weakened the republican dimension of democracy. Importantly, encroachment clashed with the inclusionary logic of the MAS’s radical democratic project and became a focal point for political opposition. Ultimately, the growing concentration of power and repeated violations of institutional checks and balances were a major source of instability—they served as a platform for violent political change.

## Bolivia's New Impasse

On November 10, 2019, Evo Morales was unexpectedly forced from office. His extra-constitutional ouster occurred weeks after a highly contested election, in which the final results suggested that he had barely eked out the votes necessary to avoid a run-off. These results were themselves highly contested (OAS 2019) and highlighted the fragility of Bolivia's democratic consensus. They also reveal the degree to which the electoral components of the democratic regime were vulnerable. After weeks of protests throughout the country, some of which were violent, a nation-wide police mutiny, and a suggestion by the military—and important allies—that the president step aside, Morales fled into exile. To the surprise of many observers, after almost fourteen years in office and unprecedented stability the Morales's era abruptly came to an end in what was clearly an interruption of the constitutional order (Wolff 2020).

Although Morales was ousted in November 2019, the roots of his departure can be traced back to three years earlier, in 2016, when Morales lost a referendum to remove presidential term limits. Unwilling to accept those results, the government appealed to the electoral authority, the Supreme Electoral Court, which was stacked in its favor. Morales claimed it was his human right to run for office indefinitely. In a controversial ruling, the country's highest court agreed. Executive encroachment signaled a willingness on the part of the President to ignore the will of the people. In bypassing a legitimate electoral outcome, Morales overstepped a line, sparking fears of an authoritarian desire to hang onto power despite legal obstacles and popular opposition. At the same time, the decision by the court to greenlight Morales's candidacy shattered Bolivians' trust in the court's independence (Crisis Group 2020: 2).

Taken together, these actions largely shaped the meaning and meaningfulness of the contentious electoral process of 2019 and tainted them with suspicions of illegality. Suspicion around the electoral process and fraud or vote-rigging accusations became credible—whether real or not—and weaponized by opponents. Questions remain over the legitimacy of the controversial election in political and academic circles, as does a bitter debate over the role of the Organization of American States (OAS), which monitored the election and audited it upon Morales's request and issued a damning audit report.<sup>20</sup> There is also a growing consensus that the OAS identified worrying irregularities but did not present compelling evidence of fraud (see Trigo and Kurmanaev 2020). Indeed, several initial claims, including the OAS statistical analysis, were later debunked by different statistical analyses.<sup>21</sup> Other reports, however, raised additional concerns, like the excessive use of state resources in the electoral process (European Union 2019). Whether there was fraud or not—we may never know—it is

clear that the election contributed to a loss of legitimacy of state institutions among broad segments of the population. And while the debate over the claims of the OAS will likely take time to settle, events unfolded quickly on the ground in Bolivia.

Morales's refusal to step down as the MAS's presidential candidate in 2019 became his Achilles' heel. It sharply polarized politics, uniting a previously dispersed opposition that for years had been too fractious to pose a strong electoral threat (Anria and Huber 2018). It also encouraged former allies, such as the country's largest trade union confederation and smaller Indigenous groups, to defect and move into opposition. Morales's continued violations of liberal-democratic norms, in short, left his government vulnerable to a conservative backlash that, starting from Bolivia's largest cities in the west, then gained strength and was overpowered by opposition movements in the city of Santa Cruz, Bolivia's economic powerhouse.

Some call Morales's ouster a civil society coup while others call it a citizens' rebellion (Lehoucq 2020). The latter tend to see Morales's ouster as a rare triumph for democracy at a time when authoritarian forces appear on the ascent worldwide. At a minimum his ouster raised the possibility that liberal pluralism might be resurrected after many years of decay. In reality, liberal democracy never really thrived in the country, as we have already shown. Arguments that emphasize the notion of a citizens' rebellion tend to downplay the strength of the reactionary forces and the severity of the backlash. On the other hand, arguments that emphasize the notion of a coup tend to downplay the real authoritarian proclivities of Morales, and blame his fall on external forces that conspired against Morales and the MAS.

Whatever one calls it, what is clear is that his replacement with an interim right-wing government unleashed a fierce "revanchist" process against the inclusionary gains of the Morales era and the forces empowered in that era. The brutality of the political repression that followed Morales's ouster aimed at fragmenting the MAS and preventing its return. The repression left dozens of civilians dead and led to a sharp deterioration of the liberal dimension (Fabricant and Gustafson 2020; Mayorga 2020; Molina 2020a)—hardly a triumph for democracy.<sup>22</sup> If Morales's Bolivia was marked by "more inclusion, less liberalism" (Anria 2016), the politics that succeeded him under Jeanine Áñez's interim rule were best described as "less inclusion, and even less liberalism."

Bolivia offers important lessons on how to think about democracy. Under Morales, Bolivian democracy advanced substantively in terms of democratic inclusion, redefining who could viably participate in politics and transforming, as a consequence, the country's political game. But progress in terms of inclusion occurred alongside growing executive encroachment. The latter sowed the seeds of Morales's dramatic removal from the presidency.

By contrast, attempts to undo Morales's legacy and roll back inclusion sent the country down a perilous path of violence and conflict. For example, and with respect to inclusion, Áñez's cabinet initial eleven-member cabinet contained no Indigenous people, despite the country's majority Indigenous population.<sup>23</sup> The president also violently repressed protest. She issued a decree allowing the country's military and police forces to clamp down on protesters, leading to multiple deaths in at least two cities. A report issued by the Inter-American Commission on Human Rights (IACHR) declared the killings in each place a massacre.<sup>24</sup>

Predictably, attempts to reverse inclusionary gains and suppress the right to protest helped to remobilize the actors who had been empowered by the MAS. These actors organized protests and road blockades; they also produced a realignment of the country's major movements behind the MAS and its presidential and vice-presidential candidates, Luis Arce and David Choquehuanca, who emerged victorious in the October 2020 elections by a landslide.<sup>25</sup> Repression during the Áñez's interim regime fostered unity and raised the costs of exiting the MAS. Consequently, the party was able to return to power quickly after losing it. Its impressive electoral comeback signaled at least a partial solution to a tense political impasse in the country (Alberti 2021).

The election and its aftermath also signaled the possibility of a re-equilibration of the democratic regime—a chance to deepen inclusion, institutionalize the alternation of power, and strengthen the republican dimension of democracy. For one, Áñez, the interim president, ended up pulling out of the 2020 presidential race due to her low polling numbers vis-à-vis the other candidates. Her government's hardline policies apparently drew little support from Bolivians.<sup>26</sup> The arrival of Arce to the presidency, however, implied other changes as well. In addition to marking a clear difference from Morales in terms of his governing style (Molina 2020b), Arce announced, among other things, a move to reform the judicial branch, which had become increasingly favorable to the MAS while Morales was in office.<sup>27</sup> In a highly polarized context, however, the recent charges leveled against Áñez and her close allies raised opposition concerns about the independence of the judicial branch as well as Arce's commitment to strengthening the rule of law. In 2021, reforms had appeared to stall (Velasco-Guachalla et al. 2021b: 230).

Finally, while the MAS comeback in 2020 was strong, politics was also more pluralist than when Morales was in power. After 2020, the MAS lacked a supermajority. Governance therefore required at least some coalition-building with other politicians. Importantly, key strategic actors publicly acknowledged the results of this election—including Carlos Mesa, the MAS's strongest competitor in the election. Creemos—a radical opponent of the MAS that has advocated for insurrection in the past—

also won seats in both chambers of Congress, and it may choose to advocate for policies through formal institutional channels. At the time of writing, in November 2021, the new equilibrium seems precarious. There is heightened political conflict over the rules of democratic contestation and the terms of inclusion. Bolivian politics remain highly polarized. The MAS/anti-MAS polarization reflects class, ethnic, and regional divides, and opposing sides are mobilized and measuring their relative strength in the streets and in the halls of Congress. It is, of course, still early to tell how Arce's presidency will unfold—and whether the opposition will remain loyal. Still, one thing seems clear: a return to the status quo *ex ante*—the Morales era—seems unlikely.

## Conclusion

The point of departure for this chapter springs from our discomfort with the assertion that Bolivia's regime under the MAS became nondemocratic. Observationally, we had seen great improvements in the country, especially when comparing the MAS administration to those that had preceded it—or when placing the case in historical perspective. Our task here was to find a better theoretical fit for the often ambiguous and paradoxical regime dynamics that played out with Morales in power.

We find that Dahl's (1971) classic conceptualization of polyarchy is a more useful and flexible approach to understand the character and evolution of the Bolivian political regime over time—one that helps capture ambiguities, tensions, and nuances at the level of the political regime. After Bolivia's party system collapsed in 2005, Bolivia "careened" toward a populist mode of politics and shifted toward more democratic inclusivity (Slater 2013) that, at the same time, weakened checks and balances. Morales deepened and consolidated existing challenges to democratic contestation and introduced new ones. At the same time, the regime ushered in remarkable gains in terms of popular inclusion and mass empowerment. People from groups that were long subordinated became active in politics. They vote; they help make policy in-between election cycles; and, when their vote is ignored, they pour onto the streets in protest. This is the case even when it is "their" party that breaks the electoral promise, as occurred when Morales's bypassed the 2019 referendum results. In sum, social mobilization, inclusion, and responsiveness to organized mass constituencies became robust (Silva 2017; Anria 2018).

By mapping democracy under the MAS on Dahl's two-dimensional space, we obtain a more complete picture of the setbacks and also the gains in democracy under Morales's presidencies. Importantly, we also have a more nuanced lens through which to compare the regime that preceded and

then succeeded it. In effect, as we have seen, democracy in Bolivia before the MAS came to power was hardly an exemplary liberal democracy. It was also much less inclusive. The government that came to power after Morales's ouster was comparatively worse.

Overall, by focusing on the setbacks in horizontal accountability and also on the gains made in participation we offer a more complete regime characterization of Bolivia under the MAS. We also uncover a key insight: we can learn a lot by disaggregating political regimes into their distinct components. Indeed, we have shown that there is a lot of conceptual ground between fully functioning democracies and those that have slid backwards into authoritarian terrain. On this point, we agree with those who call for theorizing those regimes that, while clearly "defective" (Cameron 2018) in terms of their quality and "lurching, swerving, and swaying" (Slater 2013: 730) in terms of their development, remain nonetheless democratic. In this light we insist that Bolivia under the MAS remained a democracy, albeit a defective one. The MAS, a strong political movement, did not establish and consolidate an authoritarian regime, with or without adjectives.

It is also probable, we conclude, that inclusion and contestation operated at times in remarkable tension in Bolivia under the MAS. The Morales government may have boosted the inclusivity of previously marginalized social actors and contributed to their empowerment and at the same time undermined liberal institutions and horizontal accountability. Certainly, the two dimensions were not jointly maximized. That is not to say, however, that liberal institutions and popular inclusion cannot, in theory, coexist. Both elements may well be articulated, although this might require longer time horizons—and less polarizing leadership. At any rate, these tensions need not have culminated in the 2019 crisis, forcing Morales from office and ushering in a new and highly troublesome regime. That outcome was not inevitable nor preordained. Smarter political leadership would have chosen a different path and avoided undermining the credibility of the election. As always, then, when it comes to politics and democracy, agency matters, too.

## Notes

1. In 2016, a referendum asked citizens whether presidential term limits should be abolished. Voters narrowly defeated the referendum, 51 percent vs. 49 percent. Nevertheless, a MAS-friendly higher court ultimately ruled that term limits violated the American Convention on Human Rights. The controversial decision gave Morales the green light to run for a fourth term.

2. There's a bitter debate around this point. We discuss this later.

3. This is if by "populism" we mean "the top-down mobilization of mass constituencies by personalistic leaders who challenge elite groups on behalf of

an ill-defined *pueblo*, or ‘the people’” (Roberts 2007: 5). Weyland (2021: 47) notes a similar uneasiness when classifying Morales and the MAS and claims that they are—at most—“a borderline case.” For us, the label obscures more than it reveals and distracts from what populism is typically a reaction against: the exclusionary elite politics that we describe in this chapter.

4. In fact, scholars who assert that Bolivia became competitive-authoritarian under Evo Morales disagree over when this regime transition took place. For Levitsky and Loxton (2013), the regime became competitive-authoritarian during Morales’s first term in office (2006–2009). Weyland (2013) finds that the drift toward authoritarianism culminated in Morales’s decision to rescind his promise not to run for a third term in the 2014 presidential race. Similarly, Sánchez-Sibony (2021) finds evidence of competitive authoritarianism over the entire thirteen-year period that Morales was in power. For Velasco-Guachalla and colleagues (2021a), regime transition occurs later, in 2016. Each of these works identifies important moments of democratic decay in the country. Nevertheless, we agree with Cameron’s perspective in this volume (Chapter 1), which states that democratic decay must be distinguished conceptually from authoritarian construction. Our understanding of the Bolivian case aligns much more closely with the former.

5. Article 90 of the 1967 constitution stipulated that Congress elect the president among the top candidates if none received over 50 percent of the vote.

6. Laserna and colleagues show that accountability of the executive to Congress was severely undermined during this period. Among the key problems with Congress were the “excessive presidential power vis-à-vis the legislative branch, the low quality and efficiency of the legislative branch, the institutional and political weakness of the Presidency of Congress . . . and its little deliberative capacity” (2007: 102).

7. Outrage over the expulsion also appeared to be propelled by the alleged role of the United States in pressuring for the action (van Cott 2003: 772).

8. Electoral opposition to the MAS at local levels of government was more successful, although opposition parties remained largely localized, and so organized competition rarely transcended the locality of the opponent in question (Centellas 2018).

9. Of course, the growing presence of indigenous peoples in positions of power cannot only be attributable to the MAS, and it can even be traceable to the 1952 National Revolution; however, the MAS strengthened these preexisting trends.

10. Comments a Senator from the Social Democratic Power Party (PODEMOS)—who preferred to remain anonymous—expressed unmistakable discontent with this situation, when he commented that “now the Congress looks and *smells* differently.” Interview by the authors, July 29, 2008.

11. These were introduced in response to pressures for more rights, a demand that predated the Constituent Assembly, and as a way to incorporate long-excluded indigenous peoples and practices into the new state structure. Thus, the 2009 constitution allows municipalities and indigenous territories to become autonomous entities that self-govern according to indigenous norms, institutions, and authorities. So far, very few municipalities have converted into indigenous autonomies, and these changes have been more discursive than transformative (Tockman 2014).

12. According to Zegada and colleagues (2011: 196), despite the recognition of different forms of democracy in the country’s constitution, “representative democracy continues to articulate the political arena.”

13. Although there was a shift to greater representation of women after 2006, this increase can by no means be attributable only to the MAS; it is rather a by-

product of the mobilization of Bolivia's women's movement. Bolivia introduced a gender parity law with the 2009 constitution.

14. As an interesting aside, the mode of nomination utilized by the MAS has ushered in a sort of Duvergerian "contagion from the left" that had an impact on how other parties select their own candidates, and whom they select. In 2014, even Jorge "Tuto" Quiroga—a conservative candidate—ran for the presidency with an indigenous activist as a running mate. Examples like these abound.

15. Zegada and Komadina (2014: 93–94) reached similar conclusions.

16. The 2009 constitution established seven "special" seats for indigenous peoples and Afro-Bolivians. Although these special seats are a key component in the construction of Bolivia's plurinational state, it would be historically inaccurate to attribute them to the MAS; rather, they were put on the agenda by lowland and highland indigenous movements.

17. For similar dynamics in the Ministry of Mining, see Anria 2018: 148.

18. Silva (2017, 2018) reaches a similar conclusion.

19. Other notable policies include a wide array of subsidies for the low-income (on electricity, natural gas, water, gasoline, communications) and sustained increases on the minimum wage.

20. See [https://www.oas.org/en/media\\_center/press\\_release.asp?sCodigo=E-109/19](https://www.oas.org/en/media_center/press_release.asp?sCodigo=E-109/19).

21. In our assessment, the strongest account is the study produced by Idrobo, Kronick, and Rodríguez (2020). That study also includes a compelling discussion of competing studies, including their different methodologies and findings. Different independent studies—Williams and Curiel 2020, Minoldo and Quiroga 2020—also question the statistical studies of the OAS. Studies arguing in the opposite direction include Valdivia and Escobari 2020 and Nooruddin 2020.

22. For a report on the human rights violations committed by Bolivia's interim government, see International Human Rights Clinic 2020.

23. Añez later appointed two indigenous citizens to the Ministries of Mining and Education. Still, Añez has a history of making racist remarks about the country's indigenous inhabitants, and as president she vowed to keep "savages" from returning to power—an apparent reference to the indigenous heritage of Morales and his supporters.

24. Among other things, the report concludes that "it is appropriate to describe these events as massacres, given the number of people who lost their lives in the same way and at the same time and place, and because the acts in question were committed against a specific group of people. Furthermore, the patterns of injuries that have been recorded point strongly to extrajudicial killing practices" ([http://www.oas.org/en/iachr/media\\_center/PReleases/2019/321.asp](http://www.oas.org/en/iachr/media_center/PReleases/2019/321.asp)).

25. Elections were initially scheduled for May 2020 but were postponed twice, first to September and then, finally, to October 2020, due to challenges associated with the Covid-19 crisis in the country.

26. Añez had also promised early on that she would only serve as interim president. Her decision to run despite this promise cost her additional support (Kurmanaev 2020).

27. See <https://www.bolivia.com/actualidad/politica/referendo-sobre-reforma-judicial-podria-realizarse-despues-7-de-marzo-288503>.



# 5

## Ecuador: From *Muerte Lenta* to Democratic Renewal?

*Grace M. Jaramillo*

ECUADOR'S DEMOCRACY HAS FACED MANY CRISES SINCE THE TRANSITION from authoritarian rule in 1979. Crises that includes a decade of political instability between 1996 and 2006, when three democratically elected presidents were deposed. The election of Rafael Correa in 2007 brought a degree of stability to the country, but it quickly took the form of a frontal assault on basic constitutional guarantees and the surrounding rights and freedoms vital to the democratic system (Haggard and Kaufman 2021: 41). Total collapse was avoided due to a confluence of changes in context as well as decisions by key agents—inside and outside the coalition in power—between 2015 and 2018. Ecuador is a case of a timely resuscitation of democracy from the path of *muerte lenta* (slow death) *correismo* took the country during his decade in office.

Early during his first term in office, Correa's regime was already classified as an augmented—a more complex, sophisticated, and effective—delegative democracy (Mejía-Acosta 2011), a type of regime first proposed by Guillermo O'Donnell (1994) to describe electoral democracies without the necessary checks and balances to prevent executive aggrandizement or overreaching. Correa's actions debilitated a democracy that was already deficient in terms of the incoherence of its party system, lack of clear ideological choices or programmatic plans, weak institutionalization of state responsibilities in guaranteeing the rule of law (Basabe, Mejía, and Pachano 2010), and lack of democratic accountability. After 2010, scholars began to focus on the hybrid features of the regime, due to its escalating assault on institutions and constitutional guarantees, the violations of rights and freedoms and the tilting of electoral rules of the game (Conaghan 2017,

2016; de la Torre and Ortiz Lemos 2016; Basabe 2009; Pachano and García 2013; Morlino 2014, 2008). At the end of Correa's decade in power, a regime classification was never definitive. The scholarly consensus was perhaps best articulated by Francisco Sánchez and Simón Pachano (2020: 8): "Several constitutive aspects of democracy had weakened just stopping short of transitioning into authoritarianism," they concluded.

Ecuador's backsliding during Correa's decade in power fits the description of executive aggrandizement, with outcomes similar, in some respects, to an *autogolpe* (see Chapter 2 of this volume). Alternation of power emerged as a central concern in all cases of executive aggrandizement discussed in this book (see Chapters 3 and 4 in this volume).<sup>1</sup> However, in the case of Ecuador, the ultimate step toward authoritarian rule was averted at the eleventh hour. Although Correa's political movement, Alianza País, succeed in reforming the Constitution to allow unlimited reelection in 2014, the reform passed with a caveat: limitless reelection would only enter into force after the 2017 presidential elections. What was behind this last-minute decision—a seemingly fatal mistake by a leader who have proven unassailable in the polls—was anybody's guess. Correa did not bargain for an unexpected turn of events: the betrayal of his own appointed successor, who decided to rein in Correa's ambitions and thereby avert the *muerte lenta* of Ecuador's democracy.

As Haggard and Kaufman (2021) have recently asserted, democratic backsliding is a complex causal process, and the same applies to democratic revival. The central argument of this chapter is that at least three elements contributed to the restoration of Ecuadorian democracy: the falling prices of commodities, especially oil, which undermined populist programs that were crucial to Correa's popularity.<sup>2</sup> Then, massive discontent triggered active mobilization—by the Indigenous movement, journalists, political activists, environmentalists, whistleblowers, nongovernmental organizations (NGOs), and other civil society organizations—who challenged Correa's authoritarian and corrupt practices, despite systematic harassment by the government. Paraphrasing Nancy Bermeo (2003), democracy survived thanks to acts of ordinary people in extraordinary times. By 2017, the tide had drastically changed and the new President, Lenín Moreno, had no other option than to change course to appease massive social unrest and led democratic reforms. In sum, democratic revival was the result of massive social mobilization of different sectors, across the political spectrum that created pressure from below, not only to resist democratic backsliding but also to push for immediate changes. Yet this mobilization did not help to institutionalize changes in the following years: neither political parties nor civil society organizations joined forces to reinforce horizontal accountability, beyond preventing an authoritarian situation to become permanent. The new administration of Lenín Moreno, despite persistent missteps and

a lackluster management of the Covid-19 pandemic, did not stop basic conditions necessary for the proper functioning of a democratic system, but not to consolidate it.

This chapter assesses the evolution of democracy in Ecuador during the 2011–2020 decade. The first part discusses the conditions that gave rise to Rafael Correa’s electoral success and those contributed to his political fall. Using framework of this volume, the second part assesses the different components of Ecuadorian democracy following the framework described in Chapter 2 of this volume. Finally, it concludes with a synthesis of the argument and a discussion of the challenges ahead for Ecuadorian democracy.

### **Conditions Allowing the Alternation of Power**

Correa’s decade in power provides an example of executive aggrandizement, justified by the rhetoric of republican refounding. He pursued three strategies in sequence. First, he proposed and achieved a constitutional reform that put the traditional hyper-presidentialism of Ecuadorian democracy on steroids. The new constitution—approved just in the second year of his first term in office—became the main instrument used to dismantle and then redesign state institutions, above all, agencies of horizontal accountability like the judiciary, electoral authorities, the offices of the attorney general, and the national comptroller general. This was accomplished through the creation of a new “branch” of government, called Popular Participation and Social Control. While institutional dismantling was occurring, systematic violations of rights and freedoms became the norm. Freedom of speech, freedom of information and the right to protest were probably the most affected.

Structural conditions played a role in Rafael Correa’s rise and fall. The deluge of economic resources during the commodity boom of the 2000s allowed him to ramp up social expenditures, especially in his first term in office. The Citizens’ Revolution achieved important goals in terms of social investment and infrastructure. Overall, social expenditures rose from 4.2 percent of gross domestic product (GDP) in 2006 to 9.4 percent in 2016 (Government of Ecuador 2018). Public expenditure in education—as a percentage of GDP—went from 2.8 percent in 2006 to 3.9 percent in 2016. Investment in public health grew at a lower rate, but grew, nonetheless. It went from 1.2 percent of the GDP in 2006 to 2.8 percent by the end of his decade in power (World Bank 2018). Poverty reduction was also significant but less consistent. Between 2007 and 2015 it declined from 37.6 percent to 23.3 percent, a significant drop even considering the earlier decline from 64.4 percent to 37.6 percent between 2000 and 2006 (CORDES 2017). After

years of economic crisis, austerity and tight fiscal control that affected social programs across the board, this was a celebrated achievement.

Once the economic downturn set in, the volume of public investment dropped as well. Since the economy became so dependent on public spending, recession followed a decline of oil prices. Indeed, by the last quarter of 2015, the economy decreased two percentage points while during the 2016 electoral year, the downfall was even steeper. By the beginning of the presidential campaign, economic growth was down four percent (Gonzalez 2017). President Correa's approval ratings start to flounder, along with the economy as oil price reached a low of under \$50 a barrel.<sup>4</sup> By 2015, however, the economy had significantly slowed down not only because the fall of commodity prices, but also due to increasing allegations of corruption, squandering of public resources, and the tripling of the national budget tripled in less than ten years. As many economists pointed out, Correa left the country in a recession trap, with suboptimal annual rates of growth and underperforming all other Latin American economies except for Venezuela and Haiti.<sup>5</sup>

The economic downturn and the deterioration of his approval ratings influenced his decision not to run for office and let either his designated candidate or the opposition face the consequences of an economic crisis. According to interviewees, Correa would run only if he could win in a landslide.<sup>6</sup> However, the polls did not show a path to win reelection in the first presidential round. His decision not to run was a bid to guarantee the continuity of his government while avoiding personal and political humiliation.

The second driver of the transition happened behind closed doors. High-ranking members of Alianza País started to work around Lenín Moreno's candidacy. They planned ahead for a separation from the core pro-Correa faction in the event that Moreno won the election.<sup>7</sup> The possibility of dissent was not discussed openly. The harassment of journalists, activists, and NGOs critical with the administration were at its highest during 2015 and 2016 chilled them as well. After all, Correa had staged exemplary precedents with inside critics in the past such as Alberto Acosta, his former mentor, friend, and president of the 2008 Constitutional Assembly. Thus, the group decided to work silently and underground until they were ready to break free with *correísmo*. What was a loose network of *morenistas* in early 2016, became a firm coalition by the beginning of the presidential campaign when president Correa imposed then-vice president Jorge Glas as Moreno's running mate in spite of Moreno's reluctance. It was not lost on Moreno that Correa's close entourage kept tight control over the campaign's management and message. Meanwhile, two significant corruption scandals came into focus across mainstream media outlets and social media: Odebrecht and Petrochina. As the electoral campaign pro-

gressed, corruption became the central issue, tilting the number of supporters in favor of the opposition candidate, Guillermo Lasso, for the first time.

Moreno's faction carefully guarded its future plans. According to two loyal *correistas*, they were blindsided even during the inauguration and the first two months of his administration.<sup>8</sup> A low intensity conflict occurred inside Alianza País as Moreno dismantled the institutional pillars of Correa's power—first the party, and then the administration. The battle ensured that any departure from *correismo* had to be negotiated among the most important political players at the helm of different functions of the state. This negotiated transition from *correismo* was visible in the long list of names, formerly in high positions of power that escaped corruption charges and indictments (Basabe-Serrano 2018).<sup>9</sup>

The Odebrecht and Petrochina corruption scandals was the trigger factor that mobilized civil society organizations to pressure for change. Odebrecht spent only \$33.5 million of the \$3.3 billion in bribes around the world in Ecuador, but the fact that one third of Odebrecht's bribes in Ecuador were directly channeled to Vice President Glas through his uncle, Marcelo Rivera. Until October 2016 they both held absolute control over the largest public infrastructure contracts of the country plus the crown jewel of state-owned enterprises, Petroecuador.<sup>10</sup> Corruption dominated public opinion in the first six months of Moreno's administration. Protests in the streets of the main cities—Quito, Guayaquil, Cuenca—restlessly pitted the outgoing President against the elected one.

Moreno's decision to not interfere in the administration of justice and declare a hands off approach to the Odebrecht case (Montalvo 2018), moved the Attorney General to press charges leading to the arrest and further conviction of the once powerful vice president and his uncle. Further corruption scandals that dwarfed the Odebrecht ones swiftly followed. The case called Arroz Verde (Green Rice) exposed a complex network of kickbacks and bribes between state contractors and Alianza País that mirrored the Lava Jato scheme in Brazil. By September 2020, former president Correa and eight senior members of the government—including Jorge Glas—lost the third and final appeal in the nation's highest court (Fiscalía General del Estado 2020; Plan V 2019).<sup>11</sup> The sentence for masterminding a network of bribery and influence pedaling was politically damning for the former strongman of Ecuadorian politics.

None of these developments were the least possible at the beginning of 2017. *Correismo* had completely co-opted the judicial system. Legal consequences cuffed whistleblowers, journalists, and even watchdogs not the ones accused of wrongdoing. The 2008 constitutional wager of an executive-controlled Council of Citizens' Participation and Social Control (CPCCS) had paid off. The following section explains why reforming this

council became for many the first steppingstone to unravel the centralized control of institutional accountability.

### The Axis of Institutional Change

Chapter 5 of Ecuador's new constitution created a novel branch of government called Function of Transparency and Social Control. According to the constitution, the organizational core of this function should be the Council of Citizens' Participation and Social Control. Significantly, the CPCCS had the responsibility to select the top officials responsible for auditing and control: attorney general, prosecutor general, comptroller general, ombudsman, and the members of the National Electoral Council, in addition to numerous super-intendancies to control different aspects of public life (Articles 206–207). This institutional innovation sought to merge at vertical with horizontal mechanisms of accountability, but better resemble the organic-statist tradition of former bureaucratic authoritarian regimes in Latin America reigning in the 1960s and 1970s. As Alfred Stepan (2001: 63) asserted, it was “a justification for rapid structural change and for a strong state that can impose this change.”

Rafael Correa had, from the beginning, sought to destroy mechanisms of interest-group representation. The purpose of statist participation was to eliminate incentives for association and participation outside the state, creating instead a supposedly meritocratic alternative system of representation (Ospina 2013). In practice, the CPCCS became a conduit for the appointment of cronies and sympathizers, thereby neutralizing checks and balances.<sup>12</sup> Throughout his tenure, appointments and decisions of the CPCCS served as an extension of President Correa's tight grip over state institutions. That is why the two main elements of Moreno's legal reform were first, the elimination of unlimited reelection; and second, the overhaul of the CPCCS. Only a referendum could achieve these goals.

At the beginning of September 2017, President Moreno sought the advice of civil society organizations on how to use a referendum to reform the state. They proposed five questions that dealt directly with the possibility of Correa's reelection and the independence of the judiciary. More demands swiftly followed. Environmental organizations demanded a popular vote to stop oil exploitation in Yasuní National Park; Indigenous organizations demanded a vote to stop mining extraction of metals in the country; groups defending children's rights wanted to eliminate of any statute of limitations for sexual crimes against children.<sup>13</sup> President Moreno seized the opportunity to gain the support of disenchanting constituencies that resented democratic setbacks during *correísmo*. He had won the presiden-

tial election with a slim majority and accusations of an uneven playing field and irregularities moved thousands to protest in the streets before results were made official. By accepting the seven questions he was able to gain legitimacy. Five of them were part of a referendum, in the sense that their application was immediate and mandatory; the last two questions were labeled as just public consultations, meaning that their application was neither automatic nor mandatory. Both needed the National Assembly to follow up and change the respective laws.

Organized civil society organizations, notably, business associations, the Indigenous movement and all political parties supported President Moreno's called for a "yes" vote to overcome *correísmo*. The only political force opposing the referendum was Rafael Correa and the faction of Alianza País loyal to him. The stakes were extremely high for them—at risk was their political survival and judicial protection against future corruption charges. As such, President Correa took the lead of the public campaign for the "no" vote. He convened rallies around the country, with special attention to his traditionally loyal districts in the coastal region. However, most of the rallies were met with apathy if not animosity. In no city could the former president hold massive rallies as he had done during his decade in power.

The breath of the issues placed before the public in the referendum reflected the wide range of mobilized social groups fighting *correísmo* in 2017. Table 5.1 shows the complete list of questions and the popular support garnered by each.

The swift triumph of the "yes" in all questions, but especially in the first three, made the referendum a critical turning point in averting democratic reversion (Haggard and Kaufman, 2020). Implementing the results of the referendum would prove extremely complex. While the first and second questions left former President Correa—and his close entourage, including the vice president—formally out of the electoral game, question three became a major challenge in the years ahead.

The reason lay in the complex institutional structure created by the 2008 constitution. The transparency branch created a venue for citizen participation and watchdogs and institutionalized social activism designed to oversee the state, corporations, and the private sector. Among the institutions grouped as part of the Transparency branch were the comptroller general, the attorney general, and the superintendents of companies, banking, market power, and communications, in addition to the human rights ombudsman and even the Judicial Council, the body in charge of nominating, appointing, and overseeing judges. By the end of his tenure President Correa had almost absolute control of all functions of the state, as he famously explained in one of his Saturday broadcasting programs.<sup>14</sup> In addition to controlling the Transparency branch, he had a super-majority in

**Table 5.1 National Referendum of 2018: Questions and Results**

Issue Question	Yes (%)	No (%)	Percentage of Nulls and Blanks over Total Registration
1. Lifetime ban from serving in the public sector or running for office for people convicted for corruption.	74	26	7.46
2. Eliminate unlimited reelection possibilities.	64.3	35.7	7.59
3. Restructure and renew CPCCS.	63	37	7.90
4. Elimination of any statute of limitations for sexual abuse cases against minors.	73.8	26.2	8.07
5. Limit new mining concessions of metals near cities or protected areas.	68.9	31.1	8.17
6. Eliminate the tax over capital gains on real state property.	62.2	36.8	8.14
7. Stop any exploitation at Yasuní National Park in Amazon.	67.6	32.4	8.46

*Source:* Consejo Nacional Electoral (official results).

the National Assembly, with 70 percent of the seats giving him the votes to comfortably pass legislation, and he managed to appoint close friends, confidants, and political surrogates to the electoral and judicial branches<sup>15</sup>

Using the Varieties of Democracy Index, Moscoso and Villavicencio (2020) detailed how the erosion of independence of the branches of government lowered the quality of democracy in Ecuador. After tracing appointments to the Electoral Council, the Office of the Attorney General, and the Council of Citizens' Participation and Social Control, they concluded that Ecuador under Correa had its lowest level of democratic horizontal accountability (Moscoso and Villavicencio 2020: 14). Members of the electoral and transparency branches had become so embedded with the close circle of the president than an advisor to the presidential palace went on to become President of the Electoral Council and the president of the Electoral Council went on to become private secretary of the President. Similar patterns occurred in the selection of attorney generals throughout the decade (Moscoso and Villavicencio 2020; Páez-Bimos and Rodríguez 2018).

The lack of horizontal accountability created challenges for Moreno that were compounded by corruption scandals of his own administration, and mishandling of the economic crisis, all of which was compounded by the Covid-19 pandemic. Nonetheless, on March 1, 2018, the first step was taken when a transitory CPCCS was elected. The majority had the qualifications

and reputations that offered assurances of transparency and accountability in the selection and evaluation of future nominees to the judiciary and other organs of control. The president of the Transitory Council of Citizens' Participation and Social Control (CPCCS-T) was Julio César Trujillo. He led an unorthodox and illiberal crusade against *correísmo*, encroaching in the Judicial, Electoral, and Transparency branches. His zeal and the lack of regular procedural norms to evaluate, terminate and then replace crucial authorities of the Judicial, Electoral, and Transparency branches were severely criticized by legal experts and, of course, Correa's followers (Jacho and Ronquillo 2019; Rivadeneira 2018). Unmoved by critics, Trujillo insisted he had a constituent mandate derived from the referendum:

There is no authority above the people. We are subordinated to that mandate. The people said that in case of accusations, we have to evaluate and find the reasons for their bad performance, suspend them and appoint the ones who should replace them. . . . Moreover, we have the normative attribution to dictate norms of constitutional character, this is something that was upheld by the Constitutional Court itself, that under extraordinary circumstances—like this one—transitional institutions like ourselves have normative powers at the same level of hierarchy as constitutional norms to comply with what we have been elected for. (interview in Teleamazonas, May 13, 2020)

Within the year, instability became the norm. There were two elections of the six members of the Electoral Council, first the transitory one, then the definitive. The Judicial Council faced a similar fate. The CPCCS-T replaced the attorney general but decided the comptroller general should not be replaced. Finally, they made the radical decision to change the Constitutional Court, despite the fact that this was never within their mandate (Robles-Fernández et al. 2019). Only later was it clear they saw the complete makeover of the Constitutional Court as the only insurance against future reversal of decisions taken by the transitory CPCCS. The new Constitutional Court ruled in 2019 that all decisions made by the CPCCS-T were in full compliance with the constitution and were legitimate (Serquive 2020; Páez Bimos and Rodríguez 2018). Trujillo died just two months after the end of this transitional experiment.

Even when horizontal accountability was mostly restored as a plurality of experiences and personalities from different political persuasions replaced loyal Correa followers in key positions, the short cuts taken meant several violations to due process. As Felipe Burbano and Carlos de la Torre (2020: 70) asserted about the transitory CPCCS:

Anti-populists argue that they are making an exception to procedural norms in order to clean house after populist rule, expel the populist and his cronies, and bring back democracy. There is a fundamental flaw,

however, in their choice of means for achieving this end. When self-described democrats invoke a state of exceptionalism that authorizes them to govern outside the limits imposed by the rule of law, they perpetuate arbitrariness, weaken institutions and constitutions, feed political instability, and pave the way for the return of the ousted populist ruler or the emergence of a new one.

By the end of the decade, the puzzle of Ecuadorian democracy remains whether authoritarian exceptionalism and persistent institutional instability would continue to harm the functioning of democracy. In the short run, weak democratic practices and accomplishments of President Moreno's administration paved a path to the return of *correismo* with all its authoritarian tendencies. The 2021 presidential elections demonstrated the resilience of Rafael Correa as a political force even with a surrogate running for office. His control of around 30 percent of the electorate resembles the traditional segment formerly controlled by *roldosismo* in the 1990s under the leadership of Abdalá Bucaram or the best years of Partido Social Cristiano under León Febres Cordero. What is more salient, *correismo* ran again in 2021 with a platform of restoring the order they created during their years in power. Guillermo Lasso, who was elected president in 2021 but failed to secure a simple majority in the National Assembly, promised a fragile peace in the years to come.

## **Democratic Components, 2010–2020**

The Citizens' Revolution marked a before and after in Ecuadorian democracy. The script was similar to other cases in the region: A strongman used exceptional powers achieved through constitutional reform to dismantle democratic institutions, only to redesign them according to his preferences while also restricting democracy's surrounding rights and freedoms. The electoral system and the integrity of elections were also compromised in the process, but not to the point of allowing massive fraud or preventing the alternation in office altogether. The following sections offers an assessment of the state of key elements of the democratic system during and after Rafael Correa's decade in power.

### *The Electoral System*

Ecuador's electoral system before, during, and after Rafael Correa's administration met the electoral requirements of Dahl's polyarchy. All qualified citizens had the right to vote. The vote was mandatory for all citizens between the ages of eighteen to sixty-five, and was optional for young adults between sixteen and eighteen, members of the armed forces and the

police, Ecuadorians living abroad, and foreigners with permanent residency in the country for more than five years (Democratic Code 2009: art. 11.2).<sup>16</sup> Only convicted prisoners or citizens sentenced for criminal acts were prevented from exercising the right to vote. Once the conviction is fulfilled, the convicted recovered their rights. In terms of extension of rights and increasing gender equality, the new constitution enshrined strict gender parity in the conformation of lists of candidates for all electable positions at the national and local levels (art. 3). Ecuador became one of the first countries in Latin America to guarantee gender parity for all elected officials at all levels of government. In addition, the citizenry participated in periodic and frequent elections. As Catherine Conaghan asserted early on, Correa fashioned a plebiscitary presidency based on unmediated public support. “Never have Ecuadorians seen a president so obsessed with, and so skillful at, communications and public relations” (2008: 47).

The equity of election campaigns came under scrutiny during Correa’s years in office. State and public resources became so pervasive during elections that the playing field was not only uneven for opposition candidates but sometimes, plainly insurmountable. Correa’s administration freely used the office of the presidency and public funds to publicize his government’s achievements, his candidates of choice, and even his personal image and leadership. The watchdog organization Participación Ciudadana (Citizens’ Participation) monitored the monthly expenditure on advertising from the central government and other state institutions since 2007. The central government and the office of the president started spending \$46 million in 2007, his first year in office.<sup>17</sup> By 2016, the amount had jumped to \$170.3 million a year, an average yearly increase of around 28 percent.<sup>18</sup> It peaked in the months just before elections or referendums, and there were nine of them during his decade in power. Advertising also ramped up whenever a crisis threatened to harm the President’s popularity. For instance, immediately after the police upheaval of September 30, 2010, the government spent on average \$400,000 every month for a spot called “I accused Rafael Correa . . .”<sup>19</sup> that praised the president’s leadership (*Participación Ciudadana*: 2011).<sup>20</sup>

Under the constitution of 2008, the newly established Council of Citizens’ Participation and Social Control appointed the members of the new body in charge of organizing elections called the National Electoral Council (CNE). A separate institution would sanction and dictate justice in electoral matters: the *Tribunal for Electoral Disputes* (TCE). Its mandate was to administer electoral justice and become the court of appeals for any issue related to elections (Tribunal Contencioso Electoral 2020).

President Correa also tilted the institutional arrangements set up to oversee and control elections in his favor. Alianza País made a point of always having an ostensible majority in all the new institutions that provide horizontal accountability.<sup>21</sup> As it was explained at the beginning of the

chapter, a loyal CPCCS body appointed only members of Correa's personal entourage to preside the main electoral institutions until the end of his tenure.<sup>22</sup> Moreover, postulants for the second-round appointments in 2017 denounced serious irregularities in the qualification and selection process. By the end of the decade, not one member of CNE was independent (*El Universo* 2017a). Under these conditions, a legitimacy crisis was looming in the wake of 2017's presidential elections, the first real opportunity for alternation of power.

As expected, the first and second presidential rounds were plagued by irregularities. During the first round, the CNE's president shut the flow of information for two hours and took refuge in a nearby hotel behind closed doors at the crucial moment when the polls were closing. The second round did not look any better. It did not help that most independent polls in the previous weeks anticipated the triumph of the opposition candidate, the conservative Guillermo Lasso. On election day, independent media declared Lasso the winner, while state media declared for the official candidate, Lenin Moreno. The media war about who has won was already on air when the CNE's central computer system suddenly shut down for two hours without any explanation while the government moved quickly to apprehend one of the main pollsters that declared Lasso victorious (*El Universo* 2017a). When it resumed its activities, the President of the Electoral Council was ready to declare Lenin Moreno president.<sup>23</sup> What is more, *Participación Ciudadana's* recount rendered a result within the margin of error so it could not help to confirm the official results (2017: 35).

The perception of fairness in the electoral process was immediately in jeopardy. Notwithstanding, massive fraud was ruled out by the Organization of American States (OAS) and the observation missions of the Union of South American Nations (UNASUR). The OAS only recommended an external audit of the computer system that failed during election night.<sup>24</sup>

Needless to say, reforming the National Electoral Council became one of the most important tasks of the transitional CPCCS. The transitional CPCCS took the conservative decision to return electoral control to the cross-party control that functioned moderately well until the arrival of the new Constitution in 2008. The new members were nominated—at least informally—by the main political parties, banning names that had any link with the CNE during the Correa era (*El Universo* 2018). The formal nomination confirmed the return to cross party control. The transitional CPCCS appointed delegates nominated by the four largest political organizations: Alianza País (Moreno's side), the Creating Opportunities Movement CREO (conservative party), the Christian Social Party PSC, Pachakutik, and a former member of Izquierda Democrática (Plan V 2018b).<sup>25</sup>

Substantive changes arrived through the reforms to the Democratic Code, the body of laws that regulates elections in Ecuador passed in Jan-

uary 2020. For one thing, the D'Hont method of assigning seats, that allowed supermajorities in the National Assembly, was changed to the Webster method, which favors minority representation. For another, close lists replaced selection of candidates within lists, in an effort to reinforce political parties instead of personalized politics. Significantly enough, the reform provided a clear timing and process to achieve full gender parity by 2030, including measures to control and prevent political violence and cyber-bullying against female candidates and politicians. Finally, it changed the method of financial reporting of political campaigns to increase transparency in donor contributions and other sources of revenue in cash and in kind (NDI 2020; *El Telégrafo* 2020).

Despite changes in the distribution of responsibilities, the legal framework and in the electoral authorities, irregularities pervaded in the 2021 presidential election. The first round was extremely contested to the point where fourteen days after the first electoral round, because the difference between the second most voted, Guillermo Lasso, with the third most voted, Yaku Pérez from the Indigenous party Pachakutik, was so miniscule at 0.6 percent that the latter demanded a full recount of votes. Once again, systematic fraud was never proved.

### *Concomitant Conditions of Democracy*

*Freedom of expression.* As much as freedom of the press were consistently under attack during the Citizens' Revolution. Before 2007, governments regularly upheld these two basic human right components. Besides sparse presidential outbursts against journalists and activists during the Leon Febres Cordero administration (1984–1988), criticism against governments at the highest levels had been consistently tolerated during the third wave of democratization (Conaghan 2012).

Antagonism toward journalists in general started early in Rafael Correa's presidency. The first incident was in May 2007 when during one of his Saturday morning broadcasts, a journalist from *El Universo* newspaper posed a question that in President Correa's view contained inappropriate criticism. The exchange ended up with shouts from the president ordering guards to escort the journalist out of the presidential palace, banning him from any future interviews with the presidency. The protagonist of this first incident, Emilio Palacio, and his employer, *El Universo*, became consistent targets of harassment and censorship that culminated in criminal prosecution against Palacio, editor-at-large of the opinion page, and three majoritarian proprietors of this newspaper. As plaintiff of a libel and defamation lawsuit, President Correa demanded jail time in addition to \$40 million in compensation for damages to his honor and reputation. The defendants were condemned to three years in prison, in addition to \$10

million in compensatory charges. The Inter-American Commission on Human Rights (IACHR) accepted their case for the serious set of violations to basic rights, guarantees and procedures enshrined in the American Convention on Human Rights.

The OAS's special rapporteur for freedom of expression wrote in his 2019 report on Ecuador that "the case of Emilio Palacio and the directors at *Diario el Universo* is one of the more startling cases of utilization of criminal law to impose exemplary sanctions against journalists and opinion writers" (OAS-IACHR 2019: para. 30). *El Universo* became a milestone case, but it was not the only one. Fundamedios, an NGO founded in 2007 to monitor and advocate for freedom of expression in the wake of the new challenges to journalism activity, reported 36 uses of criminal law to chill unfavorable journalists doing investigative reporting until the end of the administration in 2017 (OAS-IACHR 2019).

Freedom of the press and freedom of expression systematically deteriorated under Correa. The 2013 law on communications became the legal mechanism to discipline the press. First, it declared information a service, not a right. As such, it had to be subject to executive control. The responsibility for that control was entrusted to two new agencies controlled by the executive: the Council for Regulation and Development of Information and Communication, and the Superintendency of Communications. The council had the duty not only to monitor media but also to produce binding content assessments about possible violations of the law in media releases. However, the communications superintendent had rather extensive powers. As defined by the law on communication, the superintendency "is the technical organism of vigilance, accountability, intervention and control with capacity to sanction . . . with ample attributions to enforce the norms regulating information and communication" (chap. 3 / art. 55). To top these developments, the reform to the criminal code dated from the 1970s only reformed lighter speech offenses such as insulting and disrespecting to authorities, but maintained broad definitions of defamation and libel, along with expressions hurting the honor of people as crimes, going against the Inter American Convention on Human Rights (OAS-IACHR 2019: para. 25).

The 2013 law on communication enshrined a string of limitations to the press and to freedom of information, including the introduction of "media lynching" (*linchamiento mediático*) as an offense (art. 26). This ambiguous concept was used on numerous occasions to threaten media outlets with hefty financial penalties, especially when corruption was involved. By the end 2016, three media outlets had been sanctioned using this legal concept, one of which was against a frequent presidential foe—*Teleamazonas* television channel—for airing a corruption case in continuous episodes (Estrella, Díaz Vera, and Valdéz 2018).

Compounding media lynching, the law contained clauses such as the prohibition of preemptive censorship<sup>26</sup> (art. 18), the obligation to register private personal data of interviewees (art. 20.3), the right to receive truthful information (art. 22), the prohibition against publishing information regarding people involved in judicial proceedings (art. 25) and information deemed as restricted by authorities (art. 30). The law also made media organizations “co-responsible” for journalistic transgressions in the code (art. 20). The consequences for freedom of information and the press were chilling. Between the approval of the law in 2013 to 2016, Fundamedios registered 596 cases against journalists; 67 percent of them prosecuted by the Supercom and only 23 percent by political sympathizers of the Citizens’ Revolution (Fundamedios 2017: 217).

The overregulation of journalistic activity contrasted badly with unrestrained harassment of critics by the executive. Ecuador’s most notable cartoonist, Xavier “Bonil” Bonilla became the most chilling illustration of the consequences of these flagrant transgressions of the freedom of expression. On January 4, 2014, President Correa chastised one of his cartoons as a “hit job,” calling him an “ink assassin,” among other epithets. Just two days after, the Communication Superintendency initiated an administrative process against both Bonil and his host newspaper, *El Universo*. By the end of the month, the same superintendency sanctioned the newspaper with a hefty fine equivalent to 2 percent of its gross sales of the previous three months and mandated the cartoonist to redraw the same cartoon with a message approved by the superintendency within seventy-two hours of the sentence (Ifex 2014).

These attacks on journalists and critics, as well as fines on media outlets, hurt freedom of the press and expression (Levoyer and Ordoñez 2021: 107). Investigative journalists faced million-dollar lawsuits for denouncing corruption and newspapers were sued for their editorials. Long-standing newspapers such as *Hoy* and *La Hora* were forced to close down after decades. Radios were shut down too—even the one belonging to the national union of journalists, after thirty-four years in existence. By the end of Correa’s administration, freedom of the press was in such a dire state that the OAS’s special rapporteur for freedom of expression recommended a sweeping reform of the law on communication to align it with international human rights standards (OAS-IACHR 2019). The law was thoroughly reformed in December 2018, and the new Constitutional Court upheld the human right to information and communication.

The National Assembly alone received hundreds of proposals on how to reform the law—a number similar to the judicial cases against journalists and media outlets during Correa’s decade in power (Fundamedios 2018: para. 2). The reform that was finalized in 2019 had the following elements: (1) elimination of the superintendent of communications and the crime of “media lynching”; (2) reduction of administrative penalties against journalists and

media outlets for use of information provided by third-party observers; and (3) restitution of information and communication as rights (Observacom 2018). The law retained the possibility that citizens might demand corrections and reparations for matters of libel or defamation.

*Freedom of association.* Freedom of association and assembly fared no better than freedom of the press. Civil and social participation in general was limited. Civil society organizations were the first to feel the impact of an administration adamant about controlling participation and social organization. Shortly after the new constitution enshrined the right of association and the right to protest (art. 22), President Correa ordered the dissolution of Acción Ecológica. This environmentalist NGO, with more than thirty years of advocacy for the Amazon region free of natural resource extraction, was accused of doing what it had historically done: political advocacy against large-scale mining and oil extraction (PDDHE 2017: 142).

The Citizens' Revolution stifled freedom of association with a simple decree. Passed in June 2013, Decree 16 imposed strict limits on civil society organizations. First, it forced all nonprofits to register with the government, and be regularly monitored; those that did not were banned. Second, it established causes for dissolving organizations. For instance, international funding could be grounds for dissolution—an attack on Indigenous and environmental organizations. It also imposed extensive bureaucratic controls, government supervision, and reporting to government (Conaghan 2017). Decree 16 evolved into Decree 739 in August 2015. In the new version, regulations applied to certain corporations and international NGOs. It was used to dissolve organizations like Pachamama, an environmental foundation, on the grounds that it was protesting efforts to open up oil extraction in the Amazon (Plan V 2013). Decree 739 brought other NGOs to the brink of collapse, as in the case of Fundamedios, which was campaigning against the restrictions of freedom of the press. Only international pressure from four special rapporteurs at the IACHR and the United Nations (UN) saved the organization. Other historical organizations like the National Union of Educators (UNE) were less fortunate; it was dissolved in 2016 after it sued the Ecuadorian state before the International Labor Association for violating its rights to collective bargaining and to strike (PDDHE 2019: 143). In October 2017, President Lenin Moreno struck down Decrees 16 and 739. Indeed, he went further and reinstated the two environmental organizations that were dissolved; and while problematic legislation remained enshrined in the penal code (Fundamedios 2017), Moreno did not close any civil society organizations.

*Freedom of assembly.* The right to protest enshrined in the new 2008 constitution did not fare as well. President Correa asserted numerous times dur-

ing his Saturday broadcasts, and even during the presidential campaign of his political heir, Andrés Aráuz, in 2021, that he regretted inclusion of the right to protest in the Constitution (*La República* 2015; Café with JJ radio interview 2021). At least 850 activists were prosecuted or incarcerated under Correa's regime (Calapanqui 2018; PDDHE 2017) for such crimes as making inappropriate gestures at the presidential motorcade, to Indigenous mobilizations, and at sit-ins. To be sure, Indigenous peoples were affected the most. Leaders of the Confederation of Indigenous Nationalities of Ecuador (CONAIE), the most important Indigenous organization in the country, were prosecuted for terrorism (Picq Lavinás 2013). Shuar leaders Pepe Acacho and Pedro Mashiant were sentenced to twelve years in jail for "organized terrorism" after leading peaceful protests against the 2009 water law (UNOHCHR 2018; Calapanqui 2018).

A member of the National Assembly from the Indigenous party Pachakutik faced an arrest warrant for insulting the president. He spent a year in hiding. Another was beaten to the ground as she entered Congress, even though she was pregnant. Indigenous leader and 2020 presidential candidate, Yaku Pérez Guartambel, was beaten six times by the police forces during peaceful demonstrations, and he incarcerated twice for different charges. His then common-law partner, Manuela Lavinás Picq, a Brazilian-French academic and activist, was also beaten in massive demonstrations in Quito in 2015. The Foreign Minister of Ecuador deported her without due process after detaining her in an immigration facility for more than a month (UNOHCHR 2016).

By the end of Correa's administration, cases of direct repression against Indigenous leaders totaled 197, which included cases of massive and violent incursions inside Indigenous in three communities: Dayuma, Nankitz, and Saraguro. Three Indigenous leaders were assassinated under obscure circumstances that were never clarified by independent judicial investigations. These actions were extraordinary: no democratic government, center or center-right, had used the penal code, much less terrorism charges, against Indigenous leaders since Ecuador's return to democracy in 1979.

Systematic suppression of freedom of assembly and the right to protest only worsen after the events of September 30, 2010. A gathering of members of the leftist National Federation of Students was raided. The ten members present were accused of plotting to commit terrorism. The case gained recognition as "The Luluncoto 10." Similar cases ensued, including "The El Arbolito 21" or "The Central Técnico 12." Fifty-three students from a well-known public secondary school were also taken into custody for ten days after staging street protests. Their release happened only after their parents begged on their knees for a presidential pardon. President Correa granted a presidential pardon to all accused of terrorism and sabotage (*El Universo* 2014).

In 2018, the transitional council of the judiciary created a truth commission to on the criminalization of protests under the Correa administration. The council registered a total of 1,435 cases, of which only 247 were properly recorded and investigated. The report included 33 unsolved homicides cases against journalists, witnesses, and whistleblowers (Consejo de la Judicatura Transitorio 2018).

Repression of protests and demonstrations diminished considerably during Lenin Moreno tenure in power with the exception of the events of October 2019, when the Indigenous movement had called for massive protests against Moreno's austerity package, which included an increase in the price of gas. However, Correa's supporters used the peaceful protests to call for the removal of Moreno from power. Chaos consumed the capital city for seven days. By the third day, the police and military forces greeted violent protestors and peaceful demonstrators alike with tear gas, tanks, and excessive use of force.

According to a special commission created by the Office of the Ombudsman to determine responsibilities and victims of the event in October, six deaths were directly related to police repression. The ombudsman attributed 223 human right violations to police and military transgressions and 247 human rights violations perpetrated by violent protestors against civilians and city dwellers, personal aggressions being the main ones reported (Comisión Especial para la Verdad y la Justicia Ecuador 2021: 237).

### *Democratic State and the Rule of Law*

"Independence" is not a word that describes the Ecuadorian judicial system. Santiago Basabe-Serrano (2012a: 357) has demonstrated in detail how political power and, more specifically, presidential power, has been the most important driver of changes in Ecuador's highest courts. The Supreme Court of Justice (now the National Court of Justice) faced changes in its composition, numbers, and appointees based on president's needs to solve or prevent political crisis since the return to democratic rule in 1979. The Constitutional Court—in charge of upholding basic constitutional guarantees—consistently voted along political lines (Basabe-Serrano 2012b). Moreover, constitutional judges' tenure was tied to legislative turnover and the preferences of government coalitions (Basabe and Polga-Hecimovich 2013: 155).

A move toward greater judiciary independence occurred during the *forajido* ("the outlaws") movement of protesting against President Lucio Gutierrez, who meddled in the court system. *Forajido* leaders, among them Rafael Correa, as well as traditional political parties, fought for UN oversight of Ecuador's judiciary. The UN special envoy for the independence of the judiciary, Leandro Dupuy, attempted to guarantee an open and trans-

parent process to select a brand-new Supreme Court of Justice that, in turn, would be in charge of recruiting and reforming national courts (Despouy 2005). Although the process was not error-free (Basabe-Serrano 2009), it was the first time that traditional political parties and civil society agreed on a reform process in judicial politics. Since many of the *forajido* activists ended up serving in Correa's administration, there was a reasonable expectation that that Supreme Court would last. That, however, proved to be an illusion (*El Comercio* 2009).

Early signs of political meddling in courts started early in Correa's administration. The 2008 constitution decided yet another turnover of the highest courts. As Basabe-Serrano, Panchano, and Mejía-Acosta (2010: 188) indicated in their assessment of Andean democracies, a new unelected body, the Judicial Council, would be in charge of selecting justices to the National Court. One-third of its members were not to be lawyers.

Correa's view was clear: "Listen to me clearly: The President of the Republic is not only the head of the executive power; he is also the boss of all Ecuadorian state. The Ecuadorian state is made up of the executive, the legislative, the judiciary, electoral power, transparency and social control power, superintendents, attorney general, comptroller general, etc."<sup>27</sup> This statement was used in international courts—notably by Chevron-Texaco among others—as proof that there was no rule of law and the Ecuadorian system of justice could not be trusted.<sup>28</sup>

President Correa leadership style became more autocratic following the September 30, 2010, police rebellion. The protest was directed against cuts in bonuses and additional benefits. When Correa intervened, he was locked inside a hospital in the main police headquarters. While his political movement called this an attempted coup, Correa was able to order the military to rescue him by force, which it did resulting in five casualties. Political prosecution of journalists, activists and whoever contradicted the official version of events followed. When trials did not favor the executive, judges were summarily challenged or recalled by the Judicial Council.

By February of 2011, Correa called a referendum to permit him to intervene in the judicial system yet again, which he won. He immediately fired all the magistrates in the highest courts of the country—the Constitutional Court and the National Court of Justice—and restructured the entire judiciary. His personal secretary, Gustavo Jalkh, led the process. Jalkh was invested with the power to intervene in any case and fire any judge using a pretext known as an "inexcusable error." This dubious concept was intentionally vague and had a chilling effect on judges. Correa's Saturday morning broadcasts provided a pulpit from which the president could indicate what he thought judicial sentenced should be. With every branch of government under his control, the idea of checks and balances, or any sort of horizontal accountability, was blurred.

As for control of corruption, Correa used the constitutional assembly to pass a law of executive discretion over emergency contracts. The law gave the president the power to declare any project a national priority or an emergency and immediately lift all the legal requirements of normal public procurement. Almost 80 percent of all the projects fell under this category during his administration and almost the same number of projects involved overpricing and misuse of public money. The Judicial Council determined that 45 percent of contracts were assigned to ghost companies using forged invoices (Comisión Anticorrupción 2018).

Since public infrastructure was used for political ends, Odebrecht easily found opportunities in Ecuador. It is telling that the most important indictments for bribery were the attorney general, the comptroller general and the president's attorney. The CPCCS moved quickly to change the composition of the Judicial Council, but it has not the power to change the whole judicial system, mostly appointed by the Citizens' Revolution.

## Conclusion

Ecuador's democracy was in a slow death path during Correa's decade in power. A strong and charismatic leader who was willing to use all resources at his disposal to silence opposition and secure his grip to power, Correa's first moves followed the script of republican refounding under the control of the executive. By his second year he had created a new constitution, considered to be the most hyper-presidentialist in the continent (Polga-Hecimovich 2020; Mejía-Acosta 2011). With enhanced executive powers, he asserted control over other branches of government and systematically dismantled state institutions designed to guarantee horizontal accountability.

Without an independence judiciary and other agencies of control, violations of rights and freedoms became normalized. Indigenous leaders and journalists became the most significant victims of Rafael Correa's oppressive regime. More than 190 Indigenous leaders were prosecuted during his time in office, often using terrorism charges as the main dissuasion tactic against public demonstrations and resistance against state intervention in their territories. Environmental NGOs were suspended or shuttered for defending rights of nature that were enshrined in his 2008 constitution. Yet these tactics did not deter contestation. Massive protests since 2015 steadily weakened *correísmo's* chances at the ballot box. This was not novel to Ecuadorian political history. Ecuador's strong civil society had played a central role in political change. Social mobilizations in the form of massive protests in the street, national strikes and activist campaigns often drive changes in legislatures, other branches of government, and the executive (Pérez-Liñán and Polga-Hecimovich 2017; Mejía-Acosta and Polga-Hecimovich 2011; Polga-Hecimovich 2010). It was no

different in the struggle to resuscitate democracy from the brink of collapse under *correismo*.

However, there was no quick or easy path to recover from democratic backsliding. Although Rafael Correa's decade in power did not culminate in the consolidation of an authoritarian regime, it systematically eroded the concomitant conditions that keep democracies thriving, including rule of law and respect for civil and political rights and freedoms. The restoration of horizontal institutions of accountability is still an ongoing process with several setbacks. The Council of Citizens' Participation and Social Control remains an institution prone to cooptation by diverse interests, especially of the populist authoritarian tenor. The Office of the Comptroller General has become the locus of corruption rather than auditing and accountability. Three subsequent comptroller officers have been charged with malfeasance, the last one, just a few days after the presidential election of Guillermo Lasso in 2021. The Office of the Attorney General and the higher courts remain subject to political pressure from different interests, first and foremost high officers appointed under Correa's administration.<sup>29</sup>

Notwithstanding Lenin Moreno's lackluster performance in office regarding the pandemic, economic reform and control of corruption, he fulfilled his promise of stopping democratic backsliding and retired after one term in office. The process of democratic strengthening continued beyond Moreno's tenure. During the presidential elections of 2021 Andrés Arauz, the *correista* candidate, lost the election to Guillermo Lasso, the conservative right of centre candidate. Like Peru in the 2016 and 2021 elections involving the defeat of *fujimorismo*, his triumph was the result of a loose coalition of voters seeking to defeat a possible return of *correismo* under new leadership.

Ecuadorian democracy remains precarious. The weight of moving democratic reforms and commitment to democratic practices remains on citizens, activists, and the media not on politicians or political parties. Among the persistent challenges to democratic governance is the division between the Indigenous movement and the government's economic and social policies. The independence of the judiciary is still contested and, above all, confrontations between the executive and legislative branches have become the norm rather than the exception, especially when both branches of government are permanently threatening one another with a vote of no confidence (*Muerte Cruzada*) which is a constitutional prerogative to a recall election for all elected official in both branches. Against these odds, Ecuador's democracy has survived.

## Notes

1. Daniel Ortega followed a similar path, first winning a judicial appeal in the Supreme Court to run for the third time in 2011 and then, passing by simple majority a constitutional reform allowing indefinite reelection. See Zovatto 2014: 1.

2. President Correa would systematically survey his chances of winning reelection in a single round during 2015 and early 2016 from different pollsters. He considered anything different, a defeat. The prospects of a second round where he could not win were clear in most of them, according to numerous collaborators interviewed for this chapter in 2017.

3. Field research, including primary sources and open-ended interviews of more than thirty key players in the alternation of power of 2017 helped to analyze the case during the transitional period since Lenin Moreno assumed power in May 2018. However, the comparative analysis would not be possible without pathbreaking contributions of scholars during Rafael Correa's decade in power cited in the first paragraphs (Basabe-Serrano, Mejía-Acosta, and Pachano 2010; Conaghan 2009, 2015; de la Torre and Ortiz Lemos 2015).

4. OPEP database, 2019. [https://www.opec.org/opec\\_web/en/data\\_graphs/40.htm](https://www.opec.org/opec_web/en/data_graphs/40.htm)

5. For further discussion about Correa's economic management, see Mejía-Acosta and Alborno 2019; de la Torre, Cueva, and Castellanos-Vásconez 2019.

6. The field research for this chapter included twenty open-ended interviews with top officers and aids of President Correa and President Moreno's entourage, all conducted during 2018 and 2019. All of them chose to provide context and background not quotes and to remain anonymous.

7. According to five sources who request to remain anonymous, among the early Morenistas were María Fernanda Espinosa, Fernando Bustamante, Miguel Carvajal, and even Ricardo Patiño (personal interviews, July 2018).

8. Assembly representative Pabel Muñoz, former secretary of planning and still on Correa's side, explained that he was part of the transition team that help wrote the inaugural address and then the economic plan. In both cases, the team he was part of was overruled by a different team with a complete different message that what the former Citizens' Revolution would be comfortable saying (personal interview, July 22, 2018).

9. While I was writing this chapter, Fernando Alvarado, Correa's communications secretary and one of his closest friends, fled the country after being indicted for corruption charges. He later revealed that he received help from then a close aide to Moreno in the presidential palace. The police revealed his electronic bracelet were not forced and the team in charge of his surveillance never raised any alert.

10. There have been multiple accounts from various news outlets about the case at several points during the investigation and consequent prosecution and sentencing instances. See BBC News on December 17, 2017. <https://www.bbc.com/mundo/noticias-america-latina-42346644>. Also María Belén Arroyo, "Secret Connexions of Odebrecht in Ecuador," #Per Debate, 3(1): 136–146, doi: <https://doi.org/10.18272/pd.v3i1.1555>.

11. Ecuador's Office of the Attorney General had an official explanatory page about the chronology, indictments, typology of charges, and prosecution procedures for further reference. See <https://www.fiscalia.gob.ec/caso-sobornos-2012-2016>.

12. Until the end of the decade, the majority if not all appointees to the CPCCS had worked for or have a familiar connection with elected members of Alianza País. One former minister who preferred to remain anonymous recognized that while some in the party wanted to have a majority inside the CPCCS, usually minister Ricardo Patiño demanded loyalty to all (personal interview, July 2009).

13. Amid the discussions about the referendum, a national scandal broke out about pedophile cases in public schools aided and abetted by previous administrations (Plan V, May 30, 2017, <https://www.planv.com.ec/historias/sociedad/horror>

-un-aula-clases-quito-1). Under the existing laws, those cases could be archived so activists demanded the inclusion of a specific question about this issue.

14. In Enlace 111, broadcast on March 7, 2009, President Correa, while commenting he had lunch with all judges of the National Court of Justice, asserts: “This is the most normal thing ever, because listen carefully. The President of the Republic is not only boss of the Executive branch but of all the Ecuadorian state. And the Ecuadorian state means Executive power, Legislative power, Judicial power, Electoral power, Transparency and Accountability power, Superintendents, Attorney General, Comptroller General, all that is the Ecuadorian state.” The assertion not only caused uproar in public opinion leaders, but also was used in numerous international arbitration disputes against the Ecuadorian state such as Chevron and Oxy to prove lack of judicial independence and due process guarantees.

15. Alexandra Valencia. “Correa dice su fuerza política obtiene mayoría absoluta en Asamblea de Ecuador.” February 20, 2013. Reuters: <https://www.reuters.com/article/portada-politica-ecuador-asamblea-idLTASIE91J07120130220>.

16. The Democratic Code was first approved in 2009. The National Assembly, following the 2018 referendum, passed a reform that changed important features of the original one.

17. *El Comercio*, November 27 2011. <https://www.elcomercio.com/actualidad/politica/gastos-publicidad-oficial-se-dispararon.html>.

18. *SECOM Report*, 2016, <http://www.comunicacion.gob.ec/wp-content/uploads/downloads/2017/03/Informe-pautaje-en-medios-de-comunicacion.pdf>.

19. See <https://www.videoclip.site/video/k3YL35IOed0/yo-acuso-a-rafael-correa>.

20. Participación Ciudadana, Monitoreo de Medios, <https://www.participacionciudadana.org/proyectos/observacion-electoral/monitoreo-de-medios>.

21. Fernando Bustamante, personal interview, June 30 2018; *El Universo* 2015.

22. The first president of the CNE was Domingo Paredes, one of the president’s personal advisers in the presidential palace and a longtime friend. His successor was Omar Simon, who after his appointment became Correa’s private secretary (*Expreso*, April 2, 2011). Juan Pablo Pozo, former legislative staffer for Alianza País, became the last CNE president during Correa’s decade in power. Media accounts alleged the president was the godfather to one of his children but more importantly, that Correa himself ordered the 2015 appointed members of the CNE to elect Pozo as its president. When the members did not comply, they were removed from their positions within eight days (Mil Hojas 2015).

23. Ruth Hidalgo, personal interview, July 2, 2018.

24. Interview with Fausto Camacho, former member of the CNE, <http://elecciones2017.gk.city/2017/04/04/hubo-fraude-en-las-elecciones-presidenciales-de-ecuador>.

25. The 2018–2023 CNE members: Esthela Acero (Alianza País), Enrique from Creando Oportunidades Movement (CREO), José Cabrera (PSC), Diana Atamaint (Pachakutik), Luis Verdesoto (ONGs candidate but former campaign manager for a presidential candidate from Izquierda Democrática).

26. Preemptive censorship became a new type of crime whereby a media outlet or journalist incur in fault when they do not publish news that should be in “the public interest” without specifically determined what the concept covers. Seven media outlets were charged under this figure for not publishing news that—according to Rafael Correa’s administration—were deemed “in the public interest” (*Diario el Comercio*, April 21, 2017, <https://www.elcomercio.com/actualidad/politica/ecuador-mediosdecomunicacion-multa-supercom-censuraprevia.html>).

27. Rafael Correa, “*Saturday Morning Broadcast*,” March 7, 2009. Minute 0:25, <https://www.youtube.com/watch?v=yCywBx7P8iw>

28. Two team members who the Office of the Attorney General contracted to defend arbitration cases at international courts (who asked to remain anonymous) in discussion with the author. June, 2017.

29. Santiago Basabe published in 2021 updated accounts of the challenges Ecuador still faces to nominate and select independent judges. See <https://www.primicias.ec/noticias/firmas/otra-justicia-futuro-ecuador-desidia>; <https://www.primicias.ec/noticias/firmas/corruccion-judicial-inversiones-ecuador>.

# 6

## Peru: Democratic Erosion Under Neoliberalism

*Carmen Ilizarbe*

THROUGHOUT THE TWENTY-FIRST CENTURY, PERU HAS UNDERGONE A process of democratic erosion. Longstanding patterns of inequality and corruption, as well as nondemocratic modes of rule, have been exacerbated by neoliberalism, undermining the modest achievements of an electoral democracy that was restored in 2001. This assertion may be surprising, given that in the subsequent two decades Peruvians elected five consecutive democratic governments through electoral processes that met international standards. Moreover, macroeconomic growth enabled Peru to project an image of advancing socioeconomic well-being.<sup>1</sup> Nevertheless, from the perspective of the functioning of democratic institutions and political actors, beyond minimalist and procedural issues, democratization is going in reverse—and that was before the Covid-19 pandemic.

When Covid-19 spread across the world in 2020, it forced all governments to adopt extraordinary measures to safeguard people from an illness that was especially lethal when combined with inequality and corruption. In Peru, the pandemic evolved into a *syndemic*: an interaction between the disease and preexisting conditions determined by larger political, social and economic factors, that multiplied its effects (Singer et al. 2017; Mendenhall 2020). In August 2020, Peru had the highest mortality rate in the world, and in May 2021, after the government reviewed its criteria for recording Covid-19 deaths, the country topped the charts with the highest death rate per capita.<sup>2</sup> Peru was one of the first countries in Latin America to adopt strict quarantine measures to contain the expansion of the coronavirus, under a declaration of national state of sanitary emergency extended by supreme decrees once and again up to March 2022.<sup>3</sup> Not only were social distancing and con-

finement measures severe; these were also imposed under close supervision by the police and armed forces. Also, the government promptly approved social provisions to ensure basic material wellbeing for the people, particularly disadvantaged populations, but these proved largely ineffective. Extremely high levels of informal labor, persistent social and economic inequalities, and decades of neglect of social and infrastructural state development—notably, the public health system, the basic education system and the social protection system—explain why Peru had the highest protection gap in Latin America (Blofield, Giambruno, and Filgueira 2020: 18).

The pandemic also exposed important tensions between pressing social needs and the functioning of the political and economic systems. The inertia of a thirty-year-old neoliberal agenda, always focused on the fiscal deficit, inflation rates, and macroeconomic growth *against* social investment, weighted heavily on the government's readiness to subsidize companies and its resistance to provide salaries for suspended workers, or compensation when they were finally laid off (Blofield, Giambruno, and Filgueira 2020: 47). The inability of the Peruvian state to manage the public health emergency gave way to deep social and economic crises that have increased already-high levels of unemployment, informal employment, and poverty (Diaz-Cassou et al. 2020).

In this grave context, after years of open confrontation between the legislature and the executive, Peru experienced a constitutional crisis—defined in Chapter 2 as the noncompliance of a major political actor that creates the possibility of an interruption or alteration in constitutional order. In this case, the interruption of the constitutional order, climaxing in a dramatic week in which Peru had three presidents, was the culmination of a struggle between the executive and legislative branches of government. This struggle went through several phases, including the vacancy of a president, dissolution of Congress by the new president, another vacancy, the installation of the head of Congress as president, followed by a popular uprising to compel his resignation. The turbulent election of Pedro Castillo as president in May 2021 did not bode well for the next term.

The crisis began with the election of President Pedro Pablo Kuczynski in 2016.<sup>4</sup> Kuczynski won by a mere 0.2 percent margin over Keiko Fujimori, the daughter of former president Alberto Fujimori, in an electoral process framed as a contest between supporters of democracy and those of authoritarianism and corruption. Massive street protests against Fujimori determined Kuczynski's victory in a dramatic runoff election, but *fujimorismo* had already secured an absolute majority in Congress, winning 73 of 130 seats (the president's party obtained only 18 seats). As a result, despite a multiparty system with proportional representation, one organization had ample powers to legislate, to preside over the majority of con-

gressional commissions, to block policy initiatives from the executive. In the following years, *fujimorismo* would use its congressional power to undermine the government, block policies, and censure ministers. The presidential system enshrined in the 1993 constitution had turned into a two-headed monster.<sup>5</sup>

After a year and a half of struggle, Congress managed to box the president into a corner. In early 2018 Kuczynski was forced to resign the presidency, amid accusations of corruption linked to the Odebrecht scandal (Durand 2019). Kuczynski was further weakened by a wave of popular indignation as a result of his decision to grant a presidential pardon to former president Fujimori, who was serving a twenty-five-year prison sentence for human rights violations and corruption during his tenure in office (1990–2000) (Ulfe and Ilizarbe 2019). In 1992, Fujimori had carried out a self-coup, dissolving Congress and suspending the constitution. In 2019, newly installed president Martín Vizcarra (as vice president, he was second in the line of succession) dissolved Congress<sup>6</sup> after a coalition led by *fujimorismo* threatened to depose him too, using the constitutional procedure of *vacancia presidencial* (presidential vacancy).<sup>7</sup> In November 2020, a newly elected Congress—in which *fujimorismo* did not have a majority—finally initiated a process of *vacancia* (vacancy) against president Vizcarra and secured enough votes to depose him. It was a move that resembled an infamous moment during Alberto Fujimori’s second mandate: the so-called Law of Authentic Interpretation of the 1993 constitution, that approved the candidacy of Fujimori for a third consecutive term, after the destitution of members of the Constitutional Court that had sanctioned against it. In 2020, Congress used the figure of vacancy—which is not an impeachment or *juicio político*, but a figure contemplated in the Peruvian constitution in Article 117 (Eguiguren 2017: 70)—to oust president Vizcarra. Manuel Merino, president of Congress, assumed power but was forced to resign a few days later after massive and sustained popular uprising. Vigorous and spontaneous popular protests multiplied across the country, under cover of Article 46 of the constitution, which states: “No one owes obedience to a usurping government. . . . The civilian population has the right of insurgency in defense of the constitutional order.”<sup>8</sup> The protesters overpowered the newly formed ruling coalition that, although weak, had the allegiance of the armed forces and support from the mass media. It was no small achievement: protests in the streets resolved what formal procedures could not (Ilizarbe 2021).

A few months later, the presidential election of 2021 made evident the extreme weakness of the political system, and the lack of adherence to democratic values and procedures by important segments of the political and economic elite.<sup>9</sup> The victory of Pedro Castillo over Keiko Fujimori by a narrow margin resembled the victory of Kuczynski in 2016 but brought to

the surface grave anti-democratic features. *Fujimorismo* did not concede its defeat and attempted to damage the legitimacy of the electoral process, with support from the most important media outlets and an array of personalities and political leaders whose vow to the economic model visibly trumped their commitment to democracy. False allegations of fraud, a plan to massively disqualify rural voters, the confrontation of electoral institutions, open calls for a military coup, and ethnic and racialized discriminatory discourses were some of the highlights of a direct attack on the core component of democracy: elections. In the year of the bicentennial commemoration of the foundation of the republic, the country struggled to sustain the most fundamental features of democracy.

How and why did this happen? More important, what does this say about the state of democracy in Peru? In this chapter, I center the analysis on the past ten years of democratic government, considering as its immediate context the process of re-institutionalization of democracy in Peru started in 2001. I adopt a perspective that reconceptualizes democracy beyond its minimalist definition. In this more substantial view, democratic procedures and electoral competitiveness are situated within a focus on the praxis of rule and relations between government with the governed. Also, the analysis centers on the challenges and obstacles that the process of the reinstatement of democracy entails, particularly inequality, nondemocratic modes of rule, and corruption. These are deep-rooted features of Peruvian society that—I contend—have worsened under neoliberalism, which must be understood not only as an economic model but also as a cultural regime that frames the development of Peruvian democracy during the twenty-first century (Cánepa 2020; Ilizarbe 2020).

## The Peruvian Paradox

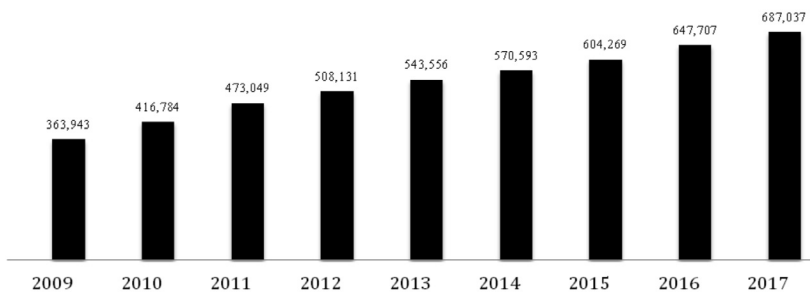
Peru is often described as a paradox: growth and poverty reduction have been paired with rising social discontent and political disaffection. After two decades of internal armed conflict, economic crisis, hyperinflation, and authoritarian rule, it appears paradoxical that macroeconomic growth and auspicious numbers in poverty reduction do not help diminish distrust in political institutions, social polarization, and electoral volatility (Carrión et al. 2020: 14). It seems surprising, until we consider the crisis of political representation, a process that in Peru can be dated back to the late 1980s.

Figure 6.1 shows that Peruvian economy had been growing steadily, at an average rate of 4.4 percent with low inflation and small debt,<sup>10</sup> making Peru “one of Latin America’s main success stories for over a decade” (Werner 2015: 1). Growth followed drastic stabilization programs and structural reforms that altered the economic system in the early 1990s (Lagarde

2015; Rossini and Santos 2015: 15–16, 32). Privatization of public companies and services, prioritization of international capital, deregulation, and limitation of social investment were pillars of the structural change sustained throughout the first two decades of the twenty-first century.

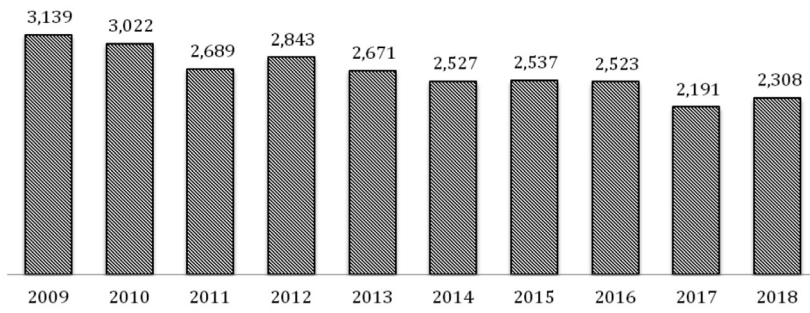
Figure 6.2 shows the persistence of popular protests (Defensoría del Pueblo 2015). Street protests, strikes, sit-ins, road blockades, and other expressions of social discontent have long been informal institutions that provide extra-institutional opportunities for direct, albeit contentious, political participation in governmental decisionmaking (Remy 2005; Arce 2014; Ilizarbe 2017). Direct political participation bypasses institutional channels because the system of political representation, and especially the party system, has collapsed (Tanaka 1998; Tanaka and Vera 2010; Zavaleta 2014).

**Figure 6.1** Peru's Gross Domestic Product, 2009–2017 (sole millions)



Source: Author's elaboration of Instituto Nacional de Estadística e Informática (INEI) data.

**Figure 6.2** Social Conflicts in Peru, 2009–2018 (annual numbers)



Source: Author's elaboration of Defensoría del Pueblo data.

Street protests and social unrest exploded with the democratic transition in 2000 and extended well beyond that moment. This was not what the literature on democratic transitions had led us to expect.

When Guillermo O'Donnell and Philippe Schmitter (1986) wrote about democratic transitions in the 1980s they recognized the critical importance of the “rebirth” of civil society. Civil society mobilization contributed to dislodging authoritarian rulers, but after transitions occurred civil society tended to demobilize—often because its leadership was co-opted into positions of leadership. This process was part of the shift from what they called the “abnormal” or exceptional politics of the transition to the more ordinary, routine, and institutionalized politics of a functioning polyarchy. Many scholars assumed that the process of democratic consolidation—building parties and strengthening their linkages with society—would create effective channels for civil society to place demands on political society (Munck 2011). The demobilization of civil society was not necessarily a bad thing: it would leave the political arena in the control of the political class, including political parties and their leaders, who would be responsive to the preferences of society as a result of competitive elections (Przeworski 1991b: 59; Diamond 1996: 33–34; Linz and Stepan 1996: 8–9).

Peru suggests an important counterexample. On the one hand, Peruvian politics have always been highly informal and weakly institutionalized, with a long-standing history of often violent political bargaining and contention in the absence of robust parties. On the other, the neoliberal policies adopted by Fujimori and successive governments further undermined the capacity for institutionalized collective bargaining by the popular sectors. Thus, the collective accumulation of money, and the collective accumulation of grievances, go hand in hand. They manifest a tension between social and economic forces, as expressed in the political arena. This tension is a paradox only if we assume, *pace* neoliberalism, that macroeconomic growth is the main driver of social development and political stability. The failure of the neoliberal strategy leaves us with the question: if the economy was booming, why was democracy withering away? To answer this, we must consider the impact of economic, social, and political inequality on democracy and its sustainability.

## **Democracy as an Ecology of Institutions and Practices**

I am interested in how democracy as a regime—that is, the combination of formal and informal patterns that determine access to and the exercise of power—operates under diverse social conditions. Guillermo O'Donnell's (2010) work provides an alternative to minimalist definitions of democracy, one that enables us to link informal institutions and cultural practices with

the conditions—including basic rights guaranteed by a legitimate and effective state—that make an inclusive democratic regime effectively possible. Democracy, in this view, is shaped by social inequality, oligarchic modes of rule, elite capture of states, entrenched discrimination, ingrained corruption, electoral systems without parties, and crises of representation. These shape not only the electoral components of the democratic regime, but also the concomitant conditions necessary for competitive elections and the constitutional or republican guarantees of citizenship. My goal is to identify the sources of democratic performance, and to evaluate the interactions among the different components and dimensions of the democratic regime (Cameron 2010: 514; Cameron 2018: 5).

The study by Martín Tanaka and Sofía Vera provides a baseline for evaluating Peruvian democracy ten years after the transition in 2000. They acknowledged the paradox of the coexistence of macroeconomic growth and low levels of political legitimacy in a democracy without a proper party system, and insufficient citizen participation (2010: 202). They highlighted a neo-dualist dynamic between the economic and the political, rooted in the economic model and the authoritarian legacy of *fujimorismo* (Tanaka and Vera 2010: 209).<sup>11</sup>

While Tanaka and Vera (2010) acknowledged the influence of the economic model inherited from *fujimorismo* on the functioning of the political system, their analysis downplayed the impact of neoliberalism on the democratic functioning of the political system (Brown 2015; Escalante 2016). Their thesis about the neo-dualist character of Peruvian democracy affirms a split dynamic between the economic and political dimensions, but as the next decade and the year of the pandemic have shown, there are important interactions between the functioning of the economic and of the political to consider when examining democracy. In what follows I examine Peruvian democracy considering its three dimensions: electoral, surrounding rights and freedoms, and republican constitutional guarantees.

### *Electoral Democracy*

In the past decade, problems of financial transparency and equitable conditions for all candidates have worsened. In terms of financial transparency, all four democratic ex-presidents (Toledo, García, Humala, and Kuczynski) have been accused of receiving illegal money from the Brazilian Odebrecht corporation (Durand 2018). The fairness of electoral processes is adversely affected by the power of money, the capacity of some parties to influence electoral institutions, and their ability to get concealed support from the media (Ilizarbe 2016b). The standard has lowered in the most recent electoral processes. For example, the independence of the electoral authority (the National Election Board) was put into question

in 2016, after it dismissed the two leading competitors of *fujimorismo* for not fulfilling formal requirements that other political organizations in the contest did not fulfill either.<sup>12</sup> In 2021 the standard lowered even more with an aggressive campaign that hailed the narrative of a stolen election, appealing to fake news and racist and classist discourses disseminated by the most important media outlets.<sup>13</sup> An institutional bias of this sort affects the integrity and legitimacy of the electoral process, casts a shadow over the independence of the electoral authority, and opens the door to questionable electoral results.

Another important component of electoral democracy is if elected officials can effectively govern without pressure groups trying to terminate, arbitrarily, their mandate. A worrisome trend has been that, on several occasions, losers do not accept electoral results and question the legitimacy of winners. The institution of recall (*revocatoria*), sanctioned in Article 31 of the 1993 constitution, has been repeatedly misused to unseat elected officials, as a result of which Peru is the country with the highest number of unseated authorities in Latin America. Students of this phenomenon have observed that the quantity and frequency of recall processes do not usually correspond with an exercise of direct participatory democracy or of accountability, but with a desire of electoral revenge and electoral opportunism of future competitors (Welp and Serdült 2014; Eberhardt 2019). Even though recall processes were limited in 2015, due to changes in the legislation, the most infamous case would happen after the 2016 presidential election. After the exclusion of the two leading candidates from the competition, Keiko Fujimori and Pedro Pablo Kuczynski made it to the second round. Fujimori lost by a mere 0.2 percent margin and spoke of “confusing results” in her delayed and reticent acceptance speech, when she also promised to lead a “watchful opposition” from Congress.<sup>14</sup> In the following years, *fujimorismo* would use its super majority in Congress to veto ministers, stall legislation, question and try to amend the orientation of public policy and, most notably, force two presidents (Pedro Pablo Kuczynski and Martín Vizcarra) to resign, misusing the constitutional mechanism of vacancy.<sup>15</sup> In all these cases, legal procedures have been used to contradict and alter the popular mandate of the most important election in a country—that of the president.<sup>16</sup>

### *Surrounding Rights and Freedoms*

A democratic state must protect the civil, political, social, and economic rights of citizens. The active exercise of rights makes democracy work, and on the contrary, the incapacity to exercise basic rights harms the possibilities of democracy (Cameron 2010: 525–528). In the previous decade, some people saw their civil liberties limited by repressive actions of governments

against protests and social mobilization as well as attacks on nongovernmental organizations (NGOs) (Tanaka and Vera 2010: 223–224).

An important test for a democratic government is whether it answers to the citizenry's demands and claims. How do governments deal with disagreement? The ombudsman's office informs that since 2004 there is an average of 200 monthly conflicts, with a majority of socio-environmental conflicts as a consequence of the forced displacement, or the contamination of lands and water of Andean or Amazonian communities whose territories are given in concession by the state to corporations for the development of extractive projects. Many of the conflicts recorded by the ombudsman's office were of a socio-environmental nature (Defensoría del Pueblo 2018).

In the past two decades the Peruvian state has developed numerous mechanisms for direct citizen participation such as participatory budgets, concerted collective planning, processes of consultation and spaces of dialogue such as *mesas de diálogo* (dialogue roundtables) and *mesas de desarrollo* (development roundtables). However, it has hardened its repressive methods and increased the participation of the armed forces, causing a significant number of people to be killed and wounded during social conflicts and in the context of declarations of state of emergency (Defensoría del Pueblo 2015: 2017). This situation was evident in the 2020 street protests in defense of democracy, when the brutality of police repression left two people dead, hundreds wounded, and dozens tortured and kidnapped (Ilizarbe 2021).

Mass media identifies social mobilization and protests as enemies of development and economic growth, accused of promoting violence and terror, and of generating chaos that would justify the militarization and restriction of fundamental rights of citizens. As indicated before, the declaration of state of emergency has become a constant throughout the years after the transition. Another worrisome trend is the territorial distribution of situations of state of emergency in the national territory. As Table 6.1 shows, Peru has returned to a situation akin to that described by the Commission of Truth and Reconciliation during the internal war: a significant percentage of the national territory, particularly areas in which socio-environmental conflicts emerge in response to extractive projects, are managed within the framework of the state of exception. In practice, for some citizens, the state suspends the rule of law and uses forms of coercion that have no place in a democracy, including torture and murder in several cases, as reported by human rights NGOs and the ombudsman's office (Macher 2014; Defensoría del Pueblo 2015). The state violates the fundamental rights of certain groups of citizens.

Table 6.1 speaks of a wide space of conflictive relationship between the state and society around the execution of policies that sustain the economic

**Table 6.1 State of Emergency Decrees and Extensions by Region, 2001–2018**

Region	Number of Original Decrees	Number of Extensions
Amazonas	3	1
Ancash	4	4
Apurímac	20	21
Arequipa	11	0
Ayacucho	19	77
Cajamarca	2	3
Callao	3	6
Cusco	35	101
Huancavelica	20	77
Huánuco	14	45
Ica	2	0
Junín	17	77
La Libertad	2	0
Lambayeque	12	1
Lima	4	0
Loreto	9	6
Madre de Dios	2	0
Moquegua	1	0
Pasco	1	0
Piura	1	0
Puno	5	1
San Martín	14	45
Tacna	2	0
Tumbes	1	0
Ucayali	13	45

*Source: Diario Oficial el Peruano (author's elaboration).*

regime but that also generate negative impacts on millions of people and their lands. The unconstrained implementation of extractive policies, that often demanded the forced displacement of numerous communities, created contention between government officials and affected populations. Faced with the impossibility of effective representation through political parties or authorities in the central government, these communities exercise self-representation in all possible instances, including the streets. The 2000 transition to electoral democracy did not substantially alter the character of the relationship between the rulers and the governed, or at least certain groups of society. The continuity of authoritarian governmental practices, particularly the constant use of a strong and militarized hand to impose governmental decisions, even violating fundamental rights of formal members of the political community, occurs within the procedural frameworks of an electoral democracy that completely disregards its consequences, and refuses to take charge of its own authoritarian temptation.

### *Constitutional Democracy*

In a constitutional republic, the rule of law prevails, both *de facto* and *de jure*. This means that a law-abiding and law-enforcing state guarantees the rights and freedoms of citizens, and a “constitutional *habitus*” is ingrained in social and political practices, not only as a formality (Cameron 2018: 8). A key feature of constitutional democracy is the independence of the executive, legislative, and judiciary branches, according to the principle of separation of powers. The concentration of power was a key feature of *fujimorismo*, in the 1992–2000 period, and the de-concentration of power and recovery of institutional autonomy was an important advance in the first decade of the twenty-first century. Nonetheless, as Tanaka and Vera noted, electoral volatility—a consequence of the breakdown of the party system—accounted for spurious alliances and agreements in Congress, that opened the door to lobbies and pressure groups (Tanaka and Vera 2010: 215–216).

Between 2010 and 2020 the problems of electoral volatility and political fragmentation continued, but another worrisome trend emerged: a relation of antagonism and confrontation between the executive and congress, particularly visible in the last presidential period (2016–2021), when *fujimorismo* obtained a super majority in Congress and interpreted it as a mandate to oversee and obstruct the executive policies and decisions. Between 2011 and 2016, during the government of President Humala, sixteen ministers underwent interpellation processes in Congress, in accordance with Article 131 of the 1993 constitution (*interpelación*), and one minister was censored and thus forced to resign (Article 132 of the 1993 constitution). During the government of Kuczynski-Vizcarra, nine ministers were interpellated, the vote of confidence for one cabinet was denied (the Pedro Cateirano cabinet, under president Vizcarra’s government in 2020), and four processes of presidential vacancy initiated (two against president Kuczynski, in 2017 and 2018, and two against president Vizcarra in 2020).

In response to the hostilities of the *fujimorista* super-majority, President Vizcarra dissolved Congress, appealing to Article 134 of the constitution. It was a constitutional and legitimate measure, with popular support, but a blow to the legislative branch. An election to choose a new Congress did not end the confrontation between the executive and the legislative branches of government. In November 2020, a party coalition in Congress obtained enough votes to declare president Vizcarra’s “permanent moral incapacity” and remove him. The decision was supported by an ample majority in Congress (105 votes in favor of removal, 19 against it, and 4 abstentions), but on the streets it was unpopular.

Congress used the procedure of *vacancia presidencial* in an unconstitutional manner: not only did Congress misinterpret Article 113, but members used it as a weapon against the executive, challenging in practice the presidential design enshrined in the constitution of 1993 (Pease 2010). During the

previous months the polls indicated that a clear majority was against the destitution, but after it, 88 percent expressed opposition (IPSOS 2020). Yet the most important blowback came from the public through massive mobilizations that overwhelmed the country, despite the sanitary emergency of the Covid-19 pandemic. The protests gathered international attention and support, and in less than a week Manuel Merino was forced to resign. After a few days of tension, the power vacuum in the presidency was filled by Francisco Sagasti, who was elected to assume the presidency of Congress and, as such, in line of succession to become the president of the republic. Only at the founding of the Peruvian republic in the nineteenth century could one find a precedent for a succession of three presidents in one week.

The interpretation made by Congress of Article 113 of the constitution and of the meaning of the figure of “permanent moral incapacity” were highly debated, and the matter was taken to the Constitutional Court. In September 2020 the executive demanded clarification from the constitutional court, during the first vacancy process against president Vizcarra, but the court delayed its response until after the conclusion of the second vacancy process, when the president had already been destitute. Even then, the court declined to settle the matter, declaring the claim inadmissible and avoiding clarification about the interpretation of the constitution by Congress. The consequences of the inaction of the Constitutional Court were, nonetheless, severe: the confrontation between the legislative and the executive ended with a congressional party alliance taking control of the executive. Congress overpowered the executive generating an important imbalance of power, that would later on be fixed with the direct intervention of the citizenry. Institutional arrangements proved ineffective to prevent a constitutional breakdown.

In the past decade, the independence of the judiciary has been seriously compromised. Some of the problems inherited from the previous decade persisted (expensive, distant, and even inaccessible justice for the common citizen), but in 2018 the proliferation of mafia-like organizations (*argollas*, or networks in defense of private interests) came to light when a high-rank *argolla* that compromised Supreme Court judges was discovered. These forms of corruption resemble “impersonal market exchanges, typically involving monetary payments to illegitimately obtain[ing] some advantage or service” (Nureña and Helfgott 2019: 171).

Finally, it is important to assess civil supremacy over armed forces, which should be nondeliberative and obedient. In this regard, Tanaka and Vera identified as the most pressing issue the use of declarations of state of emergency to manage social unrest during the years of 2001–2010 (Tanaka and Vera 2010: 224). Declarations of state of emergency became constant during the internal war. In its conclusions, the Commission of Truth and Reconciliation warned that this opened the door to systematic violations of

human rights, imposed the subordination of civil authorities to the armed forces, and strengthened preexisting authoritarian and repressive practices in the police: “The permanent nature of situations of exception in more and more provinces weakened democracy and created an environment conducive to human rights violations, as well as a common sense of the population and civil authorities in those areas according to which the power rested in the military authority. The commission considers that the abdication of democratic authority culminated in the anti-subversive legislation passed after the coup d’état of April 1992” (Comisión de la Verdad y Reconciliación 2008: 446).

The constant recourse to declarations of state of emergency must have ended with the transition to democracy, and yet there is a remarkable continuity. All four democratic governments of the twenty-first century recur to declarations of state of emergency to “manage” citizens’ protests that are recurrently identified as unbearable forms of social disturbance.

As Table 6.2 indicates, the exception has become the norm in large portions of the national territory, where the state of emergency is renewed successively instituting in practice, once again, a regime of exception where the armed forces have supremacy over civil authorities. This is a clear indication of the informal institution of authoritarian practices.

In sum, the state of democracy in Peru has deteriorated during the second decade after the transition of 2000. The democratic deficits visible during the first decade have notably worsened as well as other signs that run against the spirit of democracy have emerged visibly, namely, the exacerbation of inequality and of oligarchic trends (Cameron 2018), the

**Table 6.2 State of Emergency Decrees and Extensions by Government, 2001–2018**

Government	Number of Decrees Without Extension	Number of Decrees with Extension	Number of Extensions	Number of Suspension Decrees
Alejandro Toledo (2001–2006)	4	1	27	
Alan García (2006–2011)	13	7	65	3
Ollanta Humala (2011–2016)	10	4	94	
Pedro Kuczynski (2016–2018)	6	4	29	
Martín Vizcarra (2018)	1	3	13	
Total	34	19	228	3

*Source: Diario Oficial el Peruano (author’s elaboration).*

entrenchment of corruption networks (Durand 2018), and the strengthening of authoritarian practices. The analysis confirms that Peru is undergoing a multidimensional process of de-democratization.

### **Explaining the Reversal of Democratization**

In 2000 Peru transitioned from an electoral authoritarian to a precariously democratic regime. The government of Alberto Fujimori had lost political legitimacy after its second consecutive reelection—contrary to the plain meaning of the text of the 1993 constitution, which allowed for one reelection—and the president was forced out of office amid corruption scandals and intense protest in the streets. A transitional government led by Valentín Paniagua paved the way for the return of electoral democracy in 2001, and since then four different administrations—those of Alejandro Toledo (2001–2006), Alan García (2006–2011), Ollanta Humala (2011–2016), and Pedro Pablo Kuczynski / Martín Vizcarra / Francisco Sagasti (2016–2021)—have governed the country within the constraints of electoral democracy. The transition and evolution of the regimes has been analyzed from a range of perspectives (Grompone 2005; Tanaka 2005; Dargent 2015; Murakami 2013). A less studied process is the transition from a state-centered economy to a market-centered economy, and from a welfare state to a neoliberal one.

This is a remarkable omission since the economic transition effected significant changes in the state apparatus structure, its functioning and orientation, as well as in the constitution and laws. Furthermore, the Peruvian transition to neoliberalism has not had significant reversals and it continues leading the country's economic policies, orienting the functioning of the political system, and even reshaping the social body (Cánepa 2020; Ilizarbe 2020). Neoliberalism is best understood as a socio-political regime and not simply as a doctrine or even an economic model, as several students of neoliberalism have argued (Appadurai 2008; Todorov 2012; Brown 2015; Gago 2015; Escalante 2016). It is, in comparison to democracy, a more stable system, one that provides a framework that orients and constrains democratic options.

The constitution promulgated in 1993 marked the formal beginning of neoliberalism in Peru. Since then, for nearly three decades, neoliberalism has been institutionalized as a socio-political regime, since it reoriented not only the economy but also the functioning of the political system and the state, and even the social imagination about progress and development. Neoliberalism was initially embraced under an electoral authoritarian regime. The promulgation of the 1993 constitution projected the image that a real separation of powers, some possibility of checks and balances, and

mechanisms of accountability and governmental transparency could be put into practice. The authoritarian exercise of power occurred, however, within the framework of an electoral democracy that was no impediment to executive encroachment on the legislature and judiciary, political use of the security forces, control of the mass media through bribery and intimidation, and the massive sell-off of state property (Quiroz 2013: 540).

The return to democracy after the transitional government of Valentín Paniagua removed the ruling elite from power, but did not change the constitution, nor did it see the rebuilding of the system of political parties or the strengthening of the mechanisms of representation. There were neither substantive changes to rebuild the institutions of democracy, nor were the armed forces purged and reformed. Neoliberalism was not only not called into question by the political transition; it actually conditioned the ways in which democracy could be reinstalled. The instituted economic regime shaped the political transition to democracy.

Within this context, four peaceful transfers of power from one civilian government to another occurred. Yet the political and economic agenda varied very little. Presidents and ruling parties changed, but governmental priorities and economic policies remained the same. Alternation occurred at the political level, but all governments ended up adapting their agendas to the basic requirements of the neoliberal regime instituted in the 1990s, despite persistent demands for change from below.

In 2001 Alejandro Toledo was elected president, without a real political party behind him and with a moderate political agenda that projected the image of a government of the center. In 2006 Alan García won the presidential election with a debilitated party and a moderately left-leaning agenda that quickly turned to the right once García was in power. In 2011, Ollanta Humala was elected president on a leftist agenda and without a real political party, only to turn to the right after six months of government. In 2016 Pedro Pablo Kuczynski won the election without a political party and on a right-leaning agenda. One year and a half after his inauguration, Kuczynski was forced to resign under serious accusations of corruption related to the Brazilian corporation Odebrecht, accusations that have extended to the three preceding presidents and other important political leaders, as well as to national enterprises. Vice President Martín Vizcarra assumed power in 2018, in the middle of a struggle with a Congress controlled by a *fujimorista* majority.

The fact that all the presidents of the postdemocratic transition period have been linked to one of the biggest global corruption scandals reveals the porosity and institutional weakness of the Peruvian state, but also of the failure to institutionalize horizontal accountability. Francisco Durand advances the thesis of the economic or corporative capture of the state which, of course, is independent of the type of regime, but compromises democracy

more than authoritarian governments since democracy is supposed to abide to transparency, the rule of law and accountability. The corporate capture of the state thus exposes the limits of democracy itself, and its unsustainability when economic power goes unchallenged (2018: 275).

A silent pact to leave neoliberalism intact was secured right at the beginning of the transition. In 2002 President Toledo, following Valentin Paniagua's advice, led a public process of dialogue to generate formal agreement around certain fundamental values and policies oriented to secure the reinstatement of democracy via the construction of a "fair and democratic society" (Presidencia del Consejo de Ministros 2002: 3). The *Acuerdo Nacional* (National Agreement) functioned as a forum in which social and political organizations met regularly for a year to discuss and approve twenty-nine state policies to be implemented until 2021, on the bicentennial anniversary of Peru's independence. The *Acuerdo Nacional* implicitly supported the notion of a one-dimensional transition emphasizing the necessity to strengthen representative democracy leaving unaltered the economic model. The demands of social actors that fought for years against *fujimorismo* demanding economic changes were barely addressed. The *Acuerdo Nacional* made of the country's competitiveness a priority, privileging policies oriented to fortify entrepreneurial activity and foster national and international private investments, leaving intact the economic regime and the role of the state in it, as sanctioned in Article 60 of the 1993 constitution: the responsibility to produce wealth was not a matter of the state but of private enterprises. Its role was subsidiary to private enterprises in economic matters. In this way, the transition was conservative in economic terms, legitimating a neoliberal structure born from an authoritarian government.

The negative impact of neoliberalism on democracy was not anticipated by the literature on democratic transitions. At the end of the Cold War, it was widely assumed not only that a market-oriented economy was the only economic model compatible with democracy, but also that all contradictions within a capitalist society could be resolved within the framework of liberal democracy. Some authors recognized that neoliberalism and pure market economies represented ideological extremes that could destabilize democracy and should be avoided (Linz and Stepan 1996: 12), and this suggested the need to moderate the role of the state with regard to markets, turning it into a regulator that organizes "efficient markets" capable of producing "strong abundance" that the state can tax to secure the material well-being of the people through redistribution (Przeworski 1991a: 134–135). Beyond this, very little attention was granted to examining how well (or badly) democratic states have been doing to secure basic levels of welfare or in diminishing inequality.

Socio-cultural and economic inequalities have shaped the contours of the Peruvian social body since the creation of the republic almost two hun-

dred years ago, and even before that in colonial and precolonial times. Inequality has been the persistent, albeit fluid, characteristic of a multicultural and highly stratified society such as Peruvian society. Poverty, discriminatory social systems and a monocultural state ruled by oligarchic groups have been the constant in republican history institutionalizing in practice a system of unequal socioeconomic and cultural relations among hierarchically ranked social groups. Despite economic growth in the twenty-first century, thanks to the production and importation of primary goods, and the physical modernization of the country (railroads, highways, and international commerce) social relations perpetuated forms of social distinction based on discrimination (Portocarrero 2000; Contreras and Cueto 2004; Flores Galindo 2005; Nugent 2021).

A recent study on inequality in Peru by Alarco, Castillo, and Leiva (2019) analyzes the past two decades of economic growth and its distribution among economic sectors and agents. Their findings describe the reproduction of systematic inequalities and the ways in which the functioning of the economic system affects the performance of the political system. The authors caution us about problems with measurements of inequality, which should make us think that inequality is underestimated. “Standard economy ignores both the words *wealth* and *inequality*” (Alarco, Castillo, and Leiva 2019: 13), substituting them by the notion of capital, monetizing our understanding of economics, and narrowing our comprehension of the dynamics that make unfairness systemic. It is not only that the focus is on financial rather than on productive assets, or that official measurements obscure the accumulation of wealth because they focus only on income and do not include information from the wealthiest, it is also that the links between the accumulation of wealth and its impact on economic agents’ behavior is neglected (Giraudy and Pribble 2019). The concentration of wealth produces inequalities, and inequalities produce disparities at the social and political level, thus eroding the social fabric that is indispensable for social coexistence, even more in a democracy (Alarco, Castillo, and Leiva 2019: 14–25).

An important conclusion of this study is that inequalities negatively affect the development and growth of democracy because its dynamics and reproduction require the preservation of privilege for a few, against the access to rights and well-being of the many. One case in point is the abnormal cost-effectiveness that corporations listed in Lima’s exchange market obtain, profits way above international standards such as those of the 500 biggest US corporations listed in *Fortune* magazine. This occurs because Peru has extremely beneficial conditions for extractive enterprises, thus being one of the countries that most wealth produces in Latin America and the world. But the enormous margins of revenue for corporations drive prices in the market up and bring down the purchasing power of the citizenry, generating a negative impact on the general well-being of society.

These are the type of dynamics that explain why Peru ranks high in the ranking of global inequality (Alarco, Castillo, and Leiva 2019: 148–149, 156). This study makes visible how socioeconomic inequalities are systematically entrenched, while democratic institutions and democratic praxis are not. A similar argument was advanced by Charles Tilly, who noted a direct relationship between the absence of public policies oriented to reduce categorical inequalities, namely “organized differences in advantages by race, nationality, ethnicity, religion, community, and similar classification systems” (Tilly 2003: 37), and de-democratization in Europe.

How have the democratically elected governments dealt with social inequality in the past years? Inequality has fostered persist social mobilization after the transition of 2000. Social conflict is an expression of democratic expectations generated by the transition itself but in Peru it has turned into a form of self-representation given the extreme crisis of representation that ended up with the party system even before Fujimori came to power. The sustained recurrence to street protests as a form of political action for the past twenty-five years has acquired a specific weight in the political context, while at the same time running parallel to the deployment of neoliberalism and of the so-called Peruvian miracle of sustained macroeconomic growth, after the years of crisis and hyperinflation in the 1980s (Ilizarbe 2016: 2017).

Since the transition there have been noticeable efforts to leave behind the neo-populist politics of *fujimorismo* and the use of social programs designed to assist individual beneficiaries and secure political loyalty to the populist leader. Under the rubric of social inclusion—especially during the government of Ollanta Humala but also after it—the budget for social programs increased substantially, but more importantly, it devised a national strategy for social development and inclusion with the goal to reduce chronic child malnutrition, strengthen early childhood development, enhance programs for children of school age, promote innovative economic inclusion, and broaden protection for the elderly. The epitome of this “return to the social” is the creation of the Ministry of Development and Social Inclusion, which reoriented and articulated social programs under the managerial logic of budgeting for results and outcomes, to provide integral care to the most vulnerable and marginalized groups. The ministry has important advances in contributing to the reduction of poverty, but it is interesting to analyze the approach behind the conceptualization of policy goals.

In Carolina Trivelli’s account of the design and creation of the ministry, poverty is a set of conditions. Inequality is never mentioned and thus the problem is not conceived in social and relational terms but only as an individual experience. From this perspective, the struggle against poverty requires the right incentives and adequate help to generate “favorable circumstances” (Trivelli 2015: 431). Even more, poverty seems to be relevant

for the state only insofar as it is an obstacle to development, which is equated with macroeconomic growth. From this perspective poverty is the condition that determines the exclusion of some groups of people from the benefits of development fostered by macroeconomic growth; consequently, the solution is the inclusion of the disadvantaged into the economic dynamics that secure individual and collective progress. It is explicitly said that individual progress must contribute to the country's growth and development. The classic liberal approach to the idea of justice as fairness developed by John Rawls (1971) is here put aside in favor of the mandate to contribute to growth. In coherence with a characteristic trend of neoliberalism, economic objectives trump social and political ones. Inclusion has a strong economic meaning, but a weak social and political implication.

## Conclusion

Evaluating the functioning of democracy demands careful consideration of obstacles and challenges, not only of supporting and favorable elements. The dynamics and trends that characterize the social body need to be assessed when analyzing the progress or reversal of democratization. Similarly, economic dynamics and the institutionalization of an economic regime necessarily interact with the political system and must be accounted for. The political does not exist in a vacuum, it is always related and enmeshed in with the social, cultural, and economic dimensions of society.

In Peru, the transition to democracy in 2000 altered the functioning of the political system but left intact neoliberalism, its governmental techniques, and the institutional infrastructure that made possible its implementation. Although social inequality, nondemocratic practices, and corruption have been constant in Peruvian history, neoliberalism has exacerbated them, thus undermining efforts to secure such basic conditions of democracy as social justice and political equality. Democracy cannot exist without citizenship and the universal affirmation of rights, but citizenship requires certain social conditions that the Peruvian state fails to guarantee.

Is Peru a case of *muerte lenta*—of democracy dying a slow death? Clearly, there is a process of erosion of democratic institutions and democratic praxis that will continue unfolding unless radical changes are implemented. A hard lesson to draw from Peru is that, in fact, there is no democracy without political parties. Modern democracy is a system fully based on representation, dependent on the correct functioning of channels of intermediation between state and society. When mediation fails, social demands, popular initiatives and even the voice of the people goes unheard. Without proper mediation, governments remain isolated from the citizenry, but become permeable to private interest groups that find their way into the

state apparatus. Instead of governing for the common good, the state answers to those that make themselves noticeable via lobbies. But also, it is forced to answer directly to the people, when they come together and organize around pressing needs.

Yet it is important to highlight that the process of de-democratization, including the impossibility of reforming or remaking the party system, is closely linked to the hegemony of neoliberalism. As discussed above, the 2000 transition was conservative in economic terms, legitimating a neoliberal structure born from an authoritarian government. But leaving neoliberalism intact has had important consequences for democracy in at least three counts: it has furthered the increase of inequality, it has strengthened authoritarian tendencies, and it has facilitated the expansion of corruption; all these anti-democratic trends that undermine the basic components of citizenship, and of a law-abiding government oriented toward the common good, not to foster private interests.

The prospects for the coming years are dim. The socio-economic crisis accelerated by the Covid-19 pandemic will exacerbate an already tense relation between the state and society. The ineffectiveness of the state, as well as increasing inequality and elitism will worsen it even more. In contrast, it may also be said that the political crisis helped recover democratic energies in society. After the November crisis, public debate about a new constitution gained momentum, as well as discussions about the subsidiary role of the state and the unchecked privileges of private businesses and corporations. In May 2021, Pedro Castillo won the presidency with a left-wing agenda oriented to secure the wellbeing of historically excluded populations, and a promise to foster a new constitution. It is too early to say if the 2020–2021 political crisis will be a point of inflection that takes Peru in the direction of Chile and its constituent moment, but it seems fair to say that it may open in the near future deliberative and reflexive spaces about institutional changes propelled from below.

## Notes

1. Notably, democratic backsliding literature has not considered Peru a case in point. In a recent study that surveys the state of democracy in the world in an impressive time frame (1974–2019), and draws on sixteen case studies—including the United States and countries in Latin America, Eastern Europe, and Africa—Peru does not make it even in the list of possible cases. We thus stand in disagreement, since this study claims that there is a democratic erosion going on in Peru. The key to this divergence of results must be found at the theoretical and conceptual level: a different understanding of democracy. Democratic backsliding literature study assumes that democracy is liberal democracy and prioritizes its electoral dimension. On the contrary, this study claims, in Peru the erosion of

democracy is explained by the pervasive effects of neoliberalism on both socioeconomic inequality, and the state's market-oriented policy framework. See Haagard and Kaufman, appendix 3-10.

2. Johns Hopkins University and Medicine, "Peru Overview," <https://coronavirus.jhu.edu/region/peru>. See also Jake Horton, "Why Has Peru Been So Badly Hit?" *BBC News Latin America*, June 1, 2021, <https://www.bbc.com/news/world-latin-america-53150808>.

3. Ministry of Health, "Decreto Supremo no. 025-2021SA," August 24, 2021, <https://cdn.www.gob.pe/uploads/document/file/2122594/Decreto%20Supremo%20N%025-2021-SA.pdf>.

4. Carmen Ilizarbe, "Can New President Lead a Divided Peru?" June 15, 2016, <https://theglobalobservatory.org/2016/06/peru-kuczynski-fujimori-president-election>.

5. I have already discussed this interpretation here: Carmen Ilizarbe, "Gobierno Bicéfalo," December 10, 2016, <https://carmenilizarbe.lamula.pe/2016/12/10/gobierno-bicefalo/carmenilizarbe>.

6. Article 134 of the 1993 constitution states that the president can dissolve Congress after it has censored two cabinets, except during the final year of government. As it happens, Congress censored one cabinet during President Kuczynski's mandate and one cabinet during president Vizcarra's mandate. The Constitutional Court confirmed the validity of the dissolution. Tribunal Constitucional, "Sentencia del Tribunal Constitucional, Caso Sobre la Disolución del Congreso de la República," January 14, 2020, <https://tc.gob.pe/jurisprudencia/2020/00006-2019-CC.pdf>.

7. Article 113 of the 1993 constitution states that the presidency can be declared vacant by Congress in several circumstances, among which is the declaration—by Congress—of permanent moral or physical incapacity. The ambiguous figure of permanent moral incapacity was used to accuse the president of corruption, citing an unsubstantiated complaint. This interpretation of Article 113 contradicted Article 117, which stipulates that the president can only be accused of treason, impeding electoral processes, and unconstitutionally closing Congress.

8. Article 46 of the 1993 constitution, in full, states: "Nobody ought obedience to a usurper government, neither to the ones who assume public functions in violation of the Constitution and the laws. The population has the right to insurgency in defense of the constitutional order. Void are the acts of who usurp public office."

9. Maxwell A. Cameron and Paolo Sosa-Villagarcia, "Peru's Upcoming Presidential Election Is Really a Referendum on Its Troubled Constitution," May 13, 2021, <https://www.washingtonpost.com/politics/2021/05/13/perus-upcoming-presidential-election-is-really-referendum-its-troubled-constitution/>; "Peru Election: Socialist Pedro Castillo Claims Victory Ahead of Official Result," *The Guardian*, June 16, 2021, <https://www.theguardian.com/world/2021/jun/16/peru-election-socialist-pedro-castillo-claims-victory-ahead-of-official-result>.

10. Gross domestic product (GDP) is a measurement of the monetized value of goods and products of a country. It considers consumption (money spent in products or services), investment (money spent with expectations of future increased benefits), government spending (money spent by government at its different levels), and net exports (the difference between money spent on exports minus money spent on imports). GDP is used to infer "the size" of countries' economies at the global level, and this inference becomes an indicator of countries' wellbeing, used to rank them at the global level. The problem is that it leaves out important considerations such as economic equality or wellbeing. GDP actually obscures the unequal redistribution of wealth, unpaid or underpaid work, and the costs of pollution and of illegal activities.

11. Tanaka and Vera (2010: 212–213) detected significant democratic deficits. On the electoral dimension, they found that electoral processes do fulfill basic levels of transparency and competitiveness, although financial transparency and equitable conditions for all competitors are pending issues. With regard to constitutional democracy, they found low levels of institutionalization of the legislative and executive powers, but not a predominance of any over the other. They also highlighted serious problems of access to justice for the majority of poor people in the country (2010: 215–220). They also found citizenship deficits, including the restriction of civil rights, particularly in the context of social protests, and the government’s recurrence to declare state of emergency to deal with social conflicts (2010: 223–224). In sum, Tanaka and Vera found that Peruvian democracy had important limitations, which they attributed to the weakness of the state and of social and political actors. Their recommendations stressed the need to strengthen political parties and social organizations, to improve the quality of political representation. They also recommended state reform and modernization to guarantee professionalization, bureaucratic autonomy, and transparency, so as to secure its effectiveness in the implementation of public policies.

12. Carmen Ilizarbe “Nuestra Democracia, las Elecciones y las Tres Arenas de la Política Electoral,” March 20, 2016, <https://carmenilizarbe.lamula.pe/2016/03/20/nuestra-democracia-y-sus-tres-arenas-electorales/carmenilizarbe>.

13. Anthony Faiola, Claire Parker, and Terrence McCoy, “With Election Fraud Claims, Keiko Fujimori Takes a Page from the Trump Playbook; She’s Not Alone,” *Washington Post*, June 16, 2021, <https://www.washingtonpost.com/world/2021/06/16/trump-playbook-peru-democracy>.

14. *BBC News*, “Peru Elections: Keiko Fujimori Concedes to Kuczynski,” June 10, 2016, <https://www.bbc.com/news/world-latin-america-36505027>.

15. I have discussed this interpretation here: Carmen Ilizarbe, “Gobierno Bicéfalo,” December 10, 2016, <https://carmenilizarbe.lamula.pe/2016/12/10/gobierno-bicefalo/carmenilizarbe>.

16. Although some use the concept of populism, mainly as a synonym of leftist politics, to analyze the Peruvian case, it seems clear that the last populist leader—albeit a neoliberal populist or neopopulist leader—has been Alberto Fujimori in the final decade of the twentieth century. Despite the habitual populist rhetoric of politicians, all presidents of the twenty-first century have been deemed the lesser evil, *el mal menor*, by the electorate as evidenced by the steady increment of electoral absenteeism and blank/null voting. The progressive weakening of the figure of the president of the republic, despite its ideological identity, is yet another evidence of the spiraling process of de-legitimation of the system of political representation in Peru. I have discussed these ideas in Ilizarbe 2016a: 379–402.

# 7

## Colombia: A Liberal Democracy Besieged

*Jan Boesten*

COLOMBIA IS A PUZZLE. HOW CAN RELATIVELY STABLE, DEMOCRATIC institutions coexist with an equally enduring history of violence—one that long predates the revolutionary and drug-infused paroxysm of over half a century, while other nations in South America suffered the terrors of military dictatorships, Colombian civilians retained control over the country's political institutions, held frequent elections, and honored democratic rights? There has not been a coup in Colombia since 1953.<sup>1</sup> What the Colombian regime could not guarantee, however, was freedom from violent death: more or less without cessation since Jorge Eliecer Gaitán's assassination in 1948, Colombians have been trapped in different phases of a long civil conflict. Scholars have identified Colombia's democratic deficiencies not at the level of the electoral components of a polyarchic regime, but in the republican dimension of weak public institutions: a besieged or threatened democracy (Bejarano and Pizarro 2005: 237; Bejarano et al. 2010).

This verdict remains true but is also deserving of some specification. To this day, elections remain free, fair, and competitive: civilians compete for votes, results are respected, and the winner's authority to govern is not questioned by political competitors or special interests. Moreover, since the new 1991 constitution, Colombia's liberal constitutional regime and its courts have become trailblazers in jurisprudence, developing of an influential theory, the substitution doctrine, that regulates the legality of reform of the constitution itself and, as I argue, placed effective constraints on majoritarian constitutional politics.

Yet the armed threat to democracy persists. Despite peace processes with the most important armed actors, the United Self-Defense Forces of Colombia (AUC) in the Justice and Peace Process (2005–2010), and the implementation of Havana Peace Accord with the Revolutionary Armed Forces of Colombia–People’s Army (FARC-EP) in 2017, nonstate armed actors continue harassing local populations and civil society organizations seeking to democratize Colombia’s post-agreement society. In addition, it is not only armed actors that are diminishing the quality of democracy in specific pockets of the country; elites have created patronage networks that reach into the political system and have co-opted key representative institutions (above all congress) as became evident in the *parapolítica* scandal.

Recent research (Prem et al. 2018) has shown that these patronage networks persist to this day—with lethal consequences for social leaders who continue to be assassinated in peripheral areas of the country. Crucially, these defects occur before the process of voting takes place. They arise from regionally concentrated clusters of oligarchic rule that function in tandem with the incomplete monopolization of violence and high levels of socioeconomic inequality and land ownership. The absence of the state incentivizes the privatization of security, while inequality benefits oligarchic elites and structures clientele relations. The effect is that citizens’ right to freely choose from a viable range of candidates is indirectly curtailed by the incomplete monopolization of violence and concurrent privatization of security in Colombia’s periphery: in those regions, vote-buying and coercion are still common phenomena. Citizens’ right to free assembly is directly impeded by armed actors (and their elite allies) as social leaders are continuously and systematically assassinated. Corrupt networks systematically blur the distinction between private and public ends in ways that can serve the interests of those exercising political power.<sup>2</sup>

Anria and Cyr (Chapter 4 of this volume) write that the literature on competitive authoritarianism distorts the interpretation of contemporary Bolivian politics by prioritizing contestation in the form of elections over novel modes of participation into an unduly negative assessment. Conversely, in the case of Colombia, this prioritization of contestation over participation has had the reverse effect of painting an overly positive view of the state of democracy in Colombia, in which regular formal patterns conceal nefarious political practices at the (informal) subnational level. The framework of this volume (Chapter 2) helps us to understand what Bejarano and Pizarro called a “besieged democracy.” Colombia does not have an authoritarian regime: it has a *liberal* constitutional regime that is capable of withstanding majoritarian pressures, but it is weak in combating oligarchic tendencies that undermine democratic rights within specific territorial pockets. I refer to these as oligarchic restrictions of the citizenship regime.

## Collapse of the National Front and the Constitution of 1991

Bejarano and Pizarro (2005: 235) argued that “Colombia’s democracy has always been a democracy with adjectives,” in which the semantic shift from “restricted/controlled/oligarchic” to “besieged” democracy (Archer 1995), signaled changes from deficiencies endogenous to the formal institutional setup to deficiencies exogenous to formal institutions. Respect for the electoral components of democracy ensured that Colombia never qualified as an authoritarian regime (Cameron 2018; Levitsky and Loxton 2013; Bejarano et al. 2010). The last *informal* rules inherited from the 1957 National Front power-sharing deal were terminated in 1986, after which the government no longer appointed bipartisan cabinets (Bejarano and Pizarro 2005). Moreover, the 1991 constitution further improved the democratic quality of the country’s institutions, shoring up the strength of the constitutional guarantees of democracy (Boesten 2022, 2017; Negretto 2013). In contrast to these improvements, however, the Colombian state itself experienced a period of contraction of its capacities at the same time, as violence became endemic, nonstate armed actors deeply embedded in parts of the country, and the combination of both, produced negative effects on the extra-institutional playing field (Bejarano et al. 2010; Bejarano and Pizarro 2005; Acemoglu, Robinson, and Santos 2013).

The Colombian puzzle consists of a confluence between a robust liberal democracy at the national level, and a weak state besieged by extra-institutional actors in what O’Donnell (1993) called “brown areas.” Despite efforts to demobilize the largest paramilitary (umbrella) organization, the AUC, and a peace process with largest guerrilla force, the FARC-EP, armed actors continue to harass citizens when exercising their civic rights. Human rights abuses occur on a systematic basis, and oligarchic enclaves persist at the local level. Although these deficiencies have extra-institutional origins, they have not evolved in an institutional vacuum. Rather, those armed actors, above all various paramilitary groups, linked up with informal institutions in the country’s periphery, and eventually extended their influence, via the party system and Congress, to the country’s formal institutions. My argument is that Colombia remains a defective democracy, in which sub-national political institutions produce oligarchic restrictions on democratic governance by undermining the collective exercise of civic rights of assembly and association at the local level.

To provide a quick overview of Colombia’s regime trajectory, Table 7.1 combines Bejarano and Pizarro’s assessment from 2005 with the 2010 assessment by Bejarano and colleagues, and my own further observations, starting with the National Front pact.

**Table 7.1 Colombia's Regime Trajectory Since National Front Pact**

Period	Deficiency	Subtype
1953–1957	All	Transitory authoritarian <sup>a</sup>
1958–1974, continued informally to 1986	Absence of full contestation	“Restricted” democracy (National Front Pact)
1986–2000	Limits on civil liberties and citizenship capabilities	“Besieged” democracy <sup>b</sup>
2000–2010	Limits on civil liberties and citizenship capabilities	Threatened democracy
2010–present	Limits on civil liberties and citizenship capabilities	Democracy with oligarchic enclaves

Sources: Bejarano et al. 2010; Bejarano and Pizarro 2005.

Notes: If we take Dahl's components (1971) of polyarchy (universal suffrage, competitive elections, civil rights and liberties, governance without veto-power of unelected actors), the liberal and decentralizing constitution of 1853 (universal male suffrage, liberal rights, federalism; Posada-Cárbo 2000) already institutionalized an oligarchic democracy with gender specific restrictions, or what comparativists today term a “democracy with an adjective.” The restricted nature of that democracy played a role in its complete breakdown of order in 1948 for its inability to incorporate the mobilizing working class (Collier and Collier 2002) and resulted in the authoritarian transition under General Rojas Pinilla to the restricted democracy of the National Front power-sharing deal (Bejarano and Pizarro 2005: 252; Thoumi 2005).

a. Bejarano and Pizarro referred to this period correctly as ‘authoritarian’ for the absence of elections; it was, however, transitory in nature (Boesten 2022). Thus, I modified the assessment to *transitory* authoritarian.

b. Archer had included the attribute “illiberal” in addition to “besieged,” which Bejarano and Pizarro also included in their categorization. While this reflects the zeitgeist in comparative politics in the 1990s, I argue, with the benefits of hindsight, against this categorization.

While any restrictions on the Dahlian parameters of democracy disappeared in 1986 (and certainly with the new constitution in 1991), undemocratic political practices persisted at the subnational level. Coinciding with the implementation of the new constitution was the transformation of the illicit economy that resulted in the so-called *traquetización*.<sup>3</sup> The decline of the large cartels showed that the utilization of violence and the resulting territorial control had become the central competitive advantage in the drug business to not only enforce its contracts, but also protect it politically. The illicit political economy also merged mid-ranking cartel combatants that had laundered their money into rural property with traditional landowners. The result was a social class entrenched in the archaic socio-political relations of rural Colombia that had gained significant resources to finance means of violence. The collapse of the traditional two-party system led to a dramatic increase of parties and lists for the Senate and the Chamber of Representatives. The stability of the old, albeit fragmented, two-party system contained criminal influence from the regions, now it could extend its tentacles, via congress, to the national level (Gutiérrez

Sanín 2007). Finally, the pursuit of Pablo Escobar had already created informal alliances between vigilante groups (often rival groups themselves deeply entrenched in the drug economy) with parts of the security sector of the Colombian state.

I challenge the description of Colombia's democracy as "illiberal," a term Bejarano and Pizarro borrowed from Archer (1995). The puzzle, as I see it, is precisely that Colombia now has a liberal constitutional regime, yet is still a besieged democracy. Conventional democratic theory in comparative politics has difficulties accounting for the systemic nature of democratic deficits that occur prior to the process of counting votes (see for example Przeworski 1991a; Levitsky and Loxton 2013). Those theories make claims primarily with respect to the core electoral components of the democratic regime but neglect the impact of nonelectoral deficiencies on the quality of the democratic regime; including the presence of subnational oligarchic defects that produce widespread violations of human rights. It is useful to disaggregate the *democratic functions* to turn the analytical lens on those subsystems of democratic governance.<sup>4</sup>

For the Colombian case, such a strategy can specify the nature of these defects more precisely (Cameron 2018; Chapter 2 in this volume) than merely locating them on an extra-institutional playing field. Two core characteristics of the democratic regime in Colombia stand out: human rights abuses that we witness at the subnational level, above all the continuous assassinations of social leaders, are systemic effects of the interaction between formal and informal institutions, violent and nonviolent electoral entrepreneurs, that effectively blur distinctions between legality and illegality. They are reflective of oligarchic structures at the regional level that constrain the exercise of citizenship in Colombia's periphery, and, predominantly occurring prior to electoral processes, most detrimentally effect the right to freedom of association. The quality of the constitutional regime in Colombia is reflective of its discursive genesis in a constituent assembly. The rights expanding character of its normative framework, and the resultant political practices are not only profoundly liberal, but also provide robust republican constraints on the abuse of power by the executive. These guarantees in the 1991 constitution are not mere chimeras but provide a foundation for inclusion *with* citizenship at the national level.

## Inclusion with Citizenship

Colombia's liberal regime rests on the strengths of its republican and constitutional traditions. The constitution's genesis in a constituent assembly is related to the rights-expanding character of its normative framework,

and therefore its effectiveness in restraining the use of majoritarian political appeals to expand executive power. In this section, I connect the deliberative genesis with an exemplary outcome: the control of Álvaro Uribe's efforts to reform the constitution and prolong his terms in office. The courts' jurisprudence on socioeconomic rights and minority rights are other areas of law that have moved into a rights-affirming direction since the inception of the 1991 constitution. In many Andean countries, democratic crises have occurred as a result of executive encroachment on other branches—including self-coups and other forms of executive aggrandizement in which strong leaders act in ways that undermine democracy yet enjoy substantial public support. In Colombia, executive encroachment has been curtailed primarily by the judicial system.

At the core of Colombia's "remarkably independent and proactive judicial system" (Cameron and Luna 2010: 21) lies the Constitutional Court, which was introduced with the 1991 constitution, and which is "widely considered as the most democratic the country has had since independence, not only because of its origin, but also because of its content." At the time writing, Bejarano and colleagues (2010: 128) found the court in the midst of "numerous reform attempts that [sought] to alter the institutional balance" in favor of the executive and at the expense of judiciary, including the court itself. Now, ten years after the end of Uribe's "instrumental populism" (Bejarano 2013), the constitutional strength of Colombia's democracy is no longer in doubt. The Constitutional Court has not only resisted explicitly majoritarian appeals to centralize powers, it has done so by devising an entirely novel constitutional doctrine not explicitly mentioned in the constitution but evolved from principles implicit in the normative framework of the constitution, which is discursive and pluralistic in its origin.

It is important to appreciate the 1991 constitution's pluralistic origin, which is what made the constituent assembly a *critical* juncture in Colombia's political history (Collier and Collier 2002; Mahoney 2000).<sup>5</sup> The constitutional moment grew out of the contradictions of a nominally democratic system incapable of upholding minimum channels of political participation in the midst of the violence unleashed by the war against the large drug cartels in the 1980s (Boesten 2022). These normative cleavages were accompanied by a mobilization of students, who organized nationally with the contention that violence in Colombia was a sign of structural impediments to democratic governance that only complete institutional renewal could alleviate. The process was brought to fruition in a constituent assembly whose participants represented a variety of groups, including previously excluded leftwing parties and guerrillas, as well as Indigenous peoples.

## Álvaro Uribe and the Challenge of Instrumental Populism

The second part of the argument—my contention that constitutional guarantees in the 1991 constitution are not mere symbols for rights activism—builds on evidence that the courts' abstract and concrete rights reviews have left tangible effects on the exercise of power in Colombia. I focus on the Constitutional Court's rejection of a third presidential term, based on implicit principles of the constitution that receive their normative authority from the pluralistic origin of the constitution itself. It shows the connection between discursive genesis and effectiveness of constitutional guarantees: the resilience of the constitutional dimension of democracy in Colombia derives from communicative power. It produced inclusive citizenship effects that withstood the populist challenge at the national, separation of powers, institutional level. Constituents may not have envisioned a "populist leader" testing the constraints of the constitutional order. After all, populism has been a phenomenon virtually absent in Colombia's political history (Bejarano 2013).

Álvaro Uribe, however, was like no other political leader in Colombia's history. Certainly not an outsider to politics, he was deeply entrenched in the *ranchero* culture in Antioquia, and to a large degree reflects the oligarchic predispositions of the elite political culture in Colombia's periphery that draws few distinctions between private and public ends. Moreover, his political trajectory intersected with key developments in the privatization of security that culminated in the paramilitary project of the AUC in the 1990s: his father is alleged to have been an associate of Pablo Escobar, his brother did business with the Ochoas (also of the Medellín Cartel) and was accused in court to have sponsored the "12 Apostles" paramilitary group, and Uribe himself was the strongest supporter of the CONVIVIR vigilante program. In addition, with his charismatic appeal and extraordinary popularity (consistently above 60 percent), he constructed majoritarian claims to power, based in communitarian ideals of citizenship, and embraced direct appeals to popular legitimacy that outweighed constitutional controls.

Being raised in a traditional rancher (*ganadero*) family with an expansive political network within the Liberal Party of Colombia (LPC) in Antioquia, Uribe does not readily fit the mold of populist leaders in Latin America (Loxton and Levitsky 2013): he was neither an outsider to the upper socioeconomic stratum, nor unfamiliar with the political machinery in his home department. With the help of the political network of his father in the LPC, he became the political protégé of the regional party boss, Bernardo Guerra Serna, which opened him doors to high positions in the bureaucracy in Antioquia and Bogotá. By the time he turned thirty, Uribe had already

occupied the offices of chief of Assets for Public Enterprises in Medellín, secretary general of the Ministry of Labor, and mayor of Medellín.

Subsequently he served two terms as senator for Antioquia and was elected governor of his home department in 1995 (Dugas 2003). Majoritarian appeals were part of his strategy to attain the presidency in 2002, being snubbed by the Liberal Party led him to run as an independent candidate. It is clear that Uribe treated populism as a potent strategy to attain and maintain power (Weyland 2016, 2003); his was an instrumental populism in the service of a reactionary political project (Bejarano 2013). In addition to Uribe's proximity to the channels of power in Colombia's traditional two-party system, his political biography also differed from the more classic populist caudillos, such as Hugo Chávez (see Chapter 3 of this volume), in that he did not play any role in the constitution-making process of 1991.

It is therefore useful to drop the language of populism in favor of the more precise contention that executive encroachment aimed at circumventing horizontal constraints threatens the republican dimension of the democracy, especially the capacity of the state to enact and enforce universal citizenship rights. Uribe's Democratic Security policy embraced a *Rousseauesque* affirmation of the General Will as the foundation of democratic citizenship—at the expense of liberal constitutional guarantees.<sup>6</sup> More precisely still, the peculiarly *Uribista* interpretation of the General Will strips Rousseau of his more radical transformative claims, and fully embraces its communitarian and performative connotations.

By arguing that the sources of the cleavages within society are not class divisions and conflict, but a dissociation between groups—above all between rulers and ruled—the dialectical affirmation of the General Will gives rise to a paternalistic sense of leadership; not suspicion of political power, but trust is the “key word in social life” (Gaviria Vélez 2004: 74). It enables leaders, based in majority rule, to bring everything to a negotiated conclusion “through a permanent dialogue of government with society.”<sup>7</sup> Thus, the democratic aspect of Democratic Security consists in a majoritarian-based adoration of political leadership that “placed [elites] back on their pedestal” (Bejarano 2013: 337), while the security aspect consists in the elimination of internal enemies to that state (i.e., the guerrilla), with a distinctively different—namely, conciliatory—approach to the paramilitaries. In peripheral regions of Colombia, this paternalistic affirmation of leadership has historically arisen in symbiosis with structures of clientelism: patron-client relations, characterized by inequality in status, wealth, and influence, uneven reciprocity, and affectionate, nonformal interaction between patron and clientele (Powell 1970; Dix 1980; Leal Buitrago 1984; Martz 1997; Eaton 2006; Boesten 2022).

Uribe's ideological convictions comported well with a key characteristic of oligarchy, namely the systematic distortion of the use of political

power for private rather than public ends (Cameron 2021; Foweraker 2018). It is equally unsurprising that his understanding of democracy provided a coherent justification to reform the constitution according to his needs and in rejection of legal controls. O'Donnell famously contended that there existed a fine line between the dangers of majoritarian democracy that were “exercised in the name of reason and the *citoyen*” (2010: 43), and liberal government, which “must be limited, because it refers to carriers of rights enacted and backed by the very legal system that the state and the government must themselves obey” (O'Donnell 2010: 44). Constitutional reform, too, treads on that contentious line between the legitimacy of constraints on popular power that defines the legality of constitutional reform, and the illimitability of the popular will to reform the political constitution by which it is governed. When *uribistas* pushed for constitutional reform, they veered toward the illimitability of the popular will by employing the so-called *estado de opinión* (state of opinion, as opposed to *estado de derecho*, or state of law).<sup>8</sup> If the *estado de opinión*, as opposed to the *estado de derecho*, is key, “the truly important control in a democracy is the vertical one.”<sup>9</sup> Given these ideological contentions and Uribe's exceptionally and persistently high approval ratings, it is far from counterintuitive to pursue a reform agenda at the expense of the horizontal controls.

The creation and application of the substitution doctrine to regulate constitutional reforms was essentially an exercise in channeling supra-constitutional claims of legitimacy into regular patterns suitable for collective decisionmaking. Constructed as a direct response to Uribe's sense of mission, it specified the path of constitutional reform, an explicitly expansive right consecrated in the 1991 constitution, clarified the limits of each of the three institutional routes prescribed in the constitution (legislation, referendum, constituent assembly), and thereby affirmed the precedent of the 1991 Constituent Assembly. Importantly, the development of the doctrine contradicts strategic models of judicial behavior that predicted the court to act as a strategic actor in the creation of jurisprudence (Rodríguez-Raga 2011). The court developed the substitution doctrine most consequentially in cases of highest significance to Uribe's executive (Boesten 2022). Moreover, the explicit embrace of the plurality of constituents over the uniformity of a General Will in the normative justification of the final decision to disallow three consecutive presidential terms shows that constitutional constraints, rooted in firm communicative action, bolster citizenship capacities in new democracies. Constitutional guarantees are not mere symbolic chimeras.

In 2010, the court deliberated under the shadow of the *parapolítica* scandal, which implicated numerous members of Congress in nefarious relations with illegal armed groups, and evidence implicating the Administrative Department of Security (DAS) (the equivalent of the Federal

Bureau of Investigation [FBI] in the United States and under executive jurisdiction) in a wiretapping scandal of judicial institutions. The court situated the legal context of a weak and criminalized legislature combined with a strong executive that attacked the institutionalization of judicial independence under the column of perilous effects of excessive presidentialism on the separation of powers.<sup>10</sup> It argued that the separation of powers was an axiomatic principle of the social state of law (*estado social del derecho*), inscribed in the first article of the constitution as well as in the democratic principle of the Colombian constitution (Article 137). It was intrinsically contingent on the periodization of offices, which stipulates that one officeholder's term must not align with the term of other offices with horizontal control functions. A second consecutive presidential reelection would increase the potential for such executive encroachment, thereby not only modifying an axiomatic principle of the constitution but substituting it for another (Boesten 2022; Botero et al. 2010). The application of the substitution doctrine was therefore not a convenience, but in fact a necessity to preserve society's diverse fabric:

The notion of people that accompanies the conception of constitutional liberal democracy cannot ignore the notion of pluralism, which involves the coexistence of different ideas, races, genders, backgrounds, religions, institutions, or social groups. Such a heterogeneous people accepts that all power must have limits and therefore agrees, as a sovereign people in accordance with the democratic model, to become self-restrained and establish channels through which to express all its diversity. Therefore, in contemporary states the voice of the people cannot be appropriated by one group of citizens, even if it is a majority, but it arises from the procedures that guarantee a manifestation of this plurality. (translation by author)

It was not a foregone conclusion that Uribe gracefully accepted the court's verdict, but he did, and his acceptance reflected the strength of horizontal institutions in Colombia's constitution.

The creation of the substitution doctrine is one example of the strength of the constitutional component of the concomitant conditions in Colombia's democracy, others include the cultural rights jurisprudence protecting Indigenous peoples and Afro-Colombians (Boesten 2022), and the enforcement of social rights via the unconstitutional state of affairs in a *tutela* decision in 2004 (*Estado de Cosas Inconstitucionales*; Rodríguez and Rodríguez 2010). Moreover, the courts have been an important vehicle for strategic litigation to further women's reproductive rights (curtailing a most regressive abortion law) as well as LGBTQ rights (Uprimny 2003).

## Oligarchic Constraints of Citizenship at the Margins of Legality

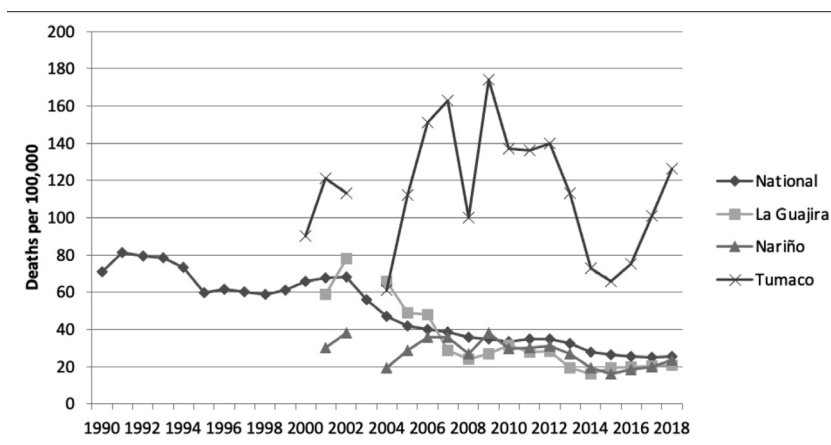
This section speaks to the pertinence of violence in Colombia that is intrinsically related to oligarchic constraints on citizenship at the margins of legality. I use the term marginality to capture the state's inability or unwillingness to establish legality and thereby open space for armed actors to exploit—even in complicity with sectors of security apparatus of the Colombian state.<sup>11</sup> Oligarchy, the exercise of public power for private ends of the wealthy few, arises in this context where the authority of the state is weak and socio-economic inequality high, providing opportunity structures for a booming illicit economy (Boesten and Idler 2021; Cameron 2021).

Gustavo Duncan (2018: 52) writes that “Colombia is a champion of inequality.” A quick glance at common inequality measures confirms his claim. Colombia has the second highest score on the Gini index for land distribution (still rising) in Latin America. This inequality is primarily concentrated in rural areas. Accordingly, the contrast between rural and urban poverty is much more extreme in Colombia than in other Latin American countries (rural poverty is almost twenty times as severe as urban poverty in Colombia, while that ratio is ten and four in Bolivia and Guatemala, respectively). Inequality, driven by a rural-urban divide, is far from a novel phenomenon in Colombia's history. This combination of regionally concentrated poverty and inequality because many, if not all, of the democratic defects identified in this chapter have a geographic source situated in the periphery of the country.

The inability of the Colombian state to assert legality is, of course, reflective of the Colombian puzzle: despite a relatively liberal democratic order, violence has been persistent. The graph below illustrates this point well (see Figure 7.1). Intentional homicides remained at an extremely high level throughout the 1990s, curving downwards after Uribe began to implement his Democratic Security policy in 2002, and reaching the lowest homicide rate of the past four decades in 2017 when Juan Manuel Santos was completing the peace negotiations with the FARC-EP (with 23 murders per 100,000 citizens). Once the implementation of the Havana Peace Treaty commenced, homicides increased again. The other lines on the chart suggest that (1) the trajectory of the reduction of violence is far from linear, and (2) specific regions of the country (in this case *departamentos* located in key corridors of the illicit economy) are affected by violence trends that are disjointed from national trends. Both points are related to developments of marginality in Colombia's periphery.

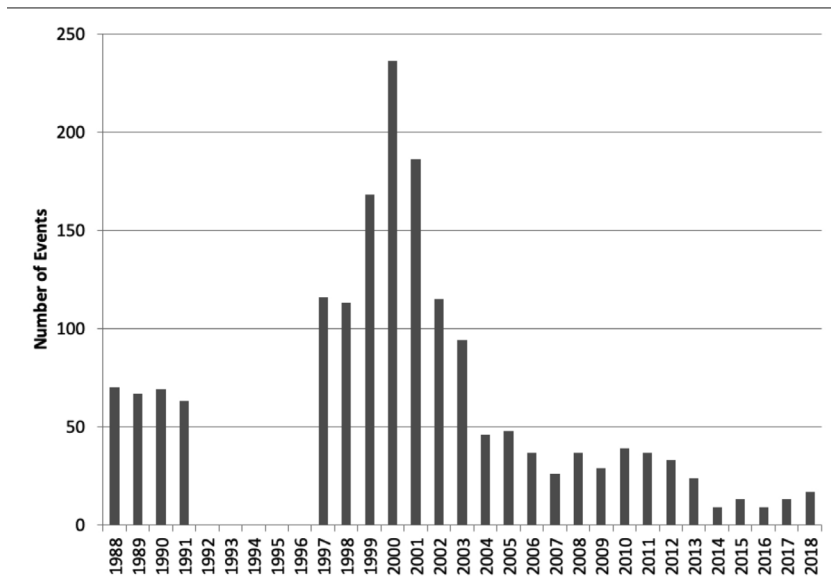
Figure 7.2 illustrates another morbid reality. The number of massacres is a measure of the violence nonstate actors employ to establish territorial

**Figure 7.1 Homicides in Tumaco, Nariño, La Guajira, and Colombia, 1990–2018**



Sources: Republic of Colombia, Instituto Nacional de Medicina Legal y Ciencias Forenses, Forensis 1999–2017; World Bank 2020.

**Figure 7.2 Massacres Committed per Year, 1988–2018**



Sources: Observatorio de Derechos Humanos y Derecho Internacional Humanitario 2022; OAS-IACHR 1993; Lopez 2010.

control. It has been the predominant strategy that paramilitary groups employ (Gutiérrez-Sanín 2008). Despite the unavailability of data for 1991–1996, the graph illustrates an extreme spike of such incidents in the 1990s, a drastic reduction after 2002, but also a relative persistence until today. That spike is reflective of the development of the so-called third generation of paramilitaries (Duncan 2006; Gutiérrez Sanín, and Barón 2006; Romero 2000). The reduction after 2002 reflects the demobilization processes with the AUC, while the persistence of massacres reflects the transformation of the security landscape and reshuffling of armed actors following demobilization processes. Violence does not disappear, and extra-judicial killings remain a strategic tool of an alliance that includes violent nonstate actors (often with connection to the illicit economy) as well as local political actors and sectors of security apparatus.

By the end of the 1990s and early 2000s, the paramilitary project “united a good sector of Colombian society: ganaderos (ranchers), industrialists, drug traffickers, militaries, some national politicians, and the entire regional elite” (Ávila Martínez 2010: 120). The various paramilitary groups operating independently throughout the regions created a proper national organization with the AUC. It consisted in a coordinated expansion plan that aimed at the entire national territory, introduced internal organization statutes with different military fronts, and public appearances of the leaders to justify the violence as a necessary response to the absence of the state and the presence of the guerrilla. This was also one of the most violent periods in those key trafficking regions of the country, as paramilitaries utilized a terror strategy (*quitarle agua al pez*, or “draining the water to catch the fish”) (see Figure 7.1). It was a purely functional coalition, in which political elites exchanged legitimacy with armed actors for neutralizing electoral changes of the 1991 constitution (Ávila Martínez 2010: 117). In exchange, “armed campaigning” gave the AUC leadership access to allies in Colombia’s national institutions, who eventually signed pacts in 2001 in Santa Fe de Ralito to “refound the nation” (López Hernández 2010).<sup>12</sup>

The multifaceted nature of the *parapolítica* alliance depended on the blurred distinction between legality and illegality, while at the same time reinforcing the ambiguity of that line. Paramilitaries exercised territorial control in certain (peripheral) areas of the country. With that control came de facto legal power to create codes of conducts in those territories: in other words, paramilitaries created a locally concentrated, and highly authoritarian, legality. At the same time, their coercive power, instrumental for creating the de facto legal power in the first place, was rooted in the control of the illicit economy and coercive strategies that amount to crimes against humanity (see Figure 7.2). *Para-institutionalization* entailed that these local structures extend to congress. The electoral process itself was not infringed. Votes were counted correctly, reported appropriately, and the correct winner,

based on those votes, duly declared. The infringement arose from the territorial control of armed actors. Alias “Diomedes” was asked in a transitional justice testimonial before the Justice and Peace Chamber of the Superior Tribunal in Medellín, whether the Bloque Metro was involved “in the intimidation of the civilian population to vote for candidate A, B or C” in mayoral, congressional, or presidential elections? “Yes of course, it was my turn to do the presidential elections of 2001 or 2002 I think it was, that was for the President Dr. Alvaro Uribe, and we had to pressure all the Northeast to vote for Mr. Alvaro Uribe’s name, because that was the order of Rodrigo Doble Cero... In Gomez Plata, the community was given merchandise, sums of \$150,000 to very poor families to cast their vote for Mr. Alvaro Uribe.” Despite the offer to buy votes, “Diomedes” also made clear that it was ultimately the tools of coercion that facilitated the appearance of a genuine democratic process with the promise of legalization for the paramilitaries:

Well, the threat was permanent, because just by being in the area of the people who came out to vote, [when we] gathered them and transported them in vans, pickup trucks, buses, from different villages and when they saw the pressure, the weapons, the armed groups, they knew what to do. [Of] course, everybody voted for Mr. Alvaro Uribe, [and the rest] was an insignificant number of votes since most votes went to Mr. Uribe, the business partner and friend who was going to legalize us. That was the payment to all of us, that we were going to be legalized.<sup>13</sup>

The result was poor provision of public goods, often brutal imposition of codes of conducts in zones under paramilitary preponderance, and little space for something resembling the rule of law and democratic governance (Boesten 2014).<sup>14</sup> In sum, the suboptimal equilibrium of dependencies between electoral entrepreneurs and illegal armed groups that undermined civic participation at the subnational level (including the right to free and fair elections) is the epitome of the oligarchic structures undermining local citizenship capabilities.

## **Violent Nonstate Actors and Their Impact on Rights and Freedoms**

Uribe’s successor, Juan Manuel Santos, embarked on a less militaristic and more political strategy to establish a lasting peace (Tappe Ortiz 2021). Santos was born into one of the most political families in Bogotá: owners of the *El Tiempo* newspaper, and great grandnephew to Eduardo Santos Montejó, President of Colombia between 1938 and 1942. Having undergone the privileged schooling of the Bogotá elite that took him to the University of Kansas, the London School of Economics, and Harvard University, he

occupied top administrative positions in the National Federation of Coffee Growers at the International Coffee Organization in London and the Colombian embassy in London. Santos is more comfortable in the country clubs of Bogotá than in communal councils, and, in contrast to Uribe's immovable right-wing convictions, espouses a more pragmatist approach to politics. His technocratic socialization is outfitted with classically liberal while not necessarily progressive convictions. The concomitant cosmopolitanism translated into a policy approach that was more oriented toward compromise, both domestically as well as regionally, and thereby helped to facilitate a viable framework to negotiate peace with the FARC-EP.

Santos's approach initially had three aspects. First, he calmed domestic institutional waters by mending the strained relations between executive and judiciary, explicitly accepting the latter's autonomy (Boesten 2022). Second, he created a *political* framework for peace with the FARC-EP, by patching regional relations with Hugo Chávez in Venezuela and the Castros in Cuba, utilizing these refurbished relations to secretly stakeout opportunities to begin talks with the FARC-EP, and ultimately design a five point negotiating agenda for talks in La Havana. Third, he implemented a land restitution law for victims of paramilitary violence and then opened negotiations with the FARC-EP.<sup>15</sup>

The political path for a negotiated peace arose because the Colombian government was convinced that the military cost to fully eliminate the FARC were going to be insupportable while military victory for the FARC-EP appeared farfetched given the defeats suffered. Negotiations entered the open phase in 2012, focusing on a five-point agenda ranging from land issues, participation in politics, drug trafficking, disarmament, to reparations of conflict victims. By 2016, negotiations were reaching an end, FARC-EP combatants assembled in re-insertion zones, and a peace accord was officially signed in La Havana in September 2016; only to fail to reach a 50 percent threshold in a plebiscite held on October 2, 2016. Congress modified and passed the accord in the subsequent month, which the FARC-EP leadership and Juan Manuel Santos signed on November 30, 2016. A year later, the FARC-EP completed demobilization, submitted all weaponry, and formally entered legal politics with the founding of the FARC (without the suffix "EP" for Alternative Revolutionary Force of the Commons).

Adam Isacson wrote before President Duque's inauguration that the peace accord "buys time for the government to 'enter' rural Colombia without having to shoot its way in, and to provide rule of law and other public goods that all states are supposed to supply."<sup>16</sup> Increasingly, the state is missing that opportunity, giving way to the systemic recurrence of privatized and illicit governance patterns. First, violence and violent actors continue to proliferate in the space opened by demobilization processes, and secondly, the resulting violence is directed against those

actors of civil society that aim to democratize those regions historically affected by the conflict.

These killings are directly related to the specifically Colombian democratic deficit, as they systematically target civic activism. The post-accord period, in particular, has been tremendously lethal for social leaders and defenders of human rights (CONPEACE). INDIPAZ (2019) has traced 566 assassinations of social leaders between January 2016—just prior to the signing of the Havana Peace Treaty—and January 2019. The Fundación Ideas para la Paz documented a steady increase in assassinations of social leaders from 2010 until 2018, from thirty-eight to over ninety per annum.<sup>17</sup> The first analyses show that the increase of assassinations of social leaders is indeed a direct, albeit unintended, consequence of peace with the FARC-EP (Prem et al. 2018). Communal action board dignitaries and civic community leaders are “the sectors suffering the greatest number of murders, since the signing of the Peace Agreement” (CINEP 2018: 21). Prem and colleagues show that social leaders are more likely to fall victim to violence “in areas with high demand for land restitution and a weaker state capacity in the form of an inefficient local judiciary” (Prem et al. 2018: 23).

In some regions, such as Urabá, Chocó, Tumaco and Mapiripán, CINEP has linked neoparamilitaries to a strategy of attaining territorial control in an alliance “with the agro-industrial sector, sectors of the military, politicians and businessmen” (2018: 21). Peace with the FARC-EP, and the paramilitaries, did not end systemic violence against civil society activists, but re-shuffled the security landscape at the margin of legality.

## The Electoral Component of Colombia’s Democracy

The state of the electoral components of democracy reflects the Colombian puzzle. Corrupt practices in elections are legacies of the presence of armed actors, clientelistic networks, and weak subnational institutions. Elections are held regularly, counted fairly, and nonelected officials abide by the results. The 1991 constitution, which, as shown, was created with the decisive participation of previously marginalized groups, opened opportunities for the electoral left that in the 1980s was systematically annihilated. In 2018, the runoff candidate against President Duque was former M-19 *guerrillero* Gustavo Petro. Elections themselves are not fraudulent either in the sense that political leaders destroy votes, stuff ballot boxes, and manipulate the institutions counting the votes. Rather, violence and vote buying have been the most prevalent practices undermining the right to vote—with the evidence suggesting this occurs predominantly at the subnational level. A case in point is the most recent presidential elections in 2018, which, as newly discovered evidence suggest, were bought with the help of illegal

armed actors. Thus, Colombia's electoral component fulfills Dahl's pol-yarchy condition (1971), Przeworski's contention (1991a) that democracies produce losing parties, and even O'Donnell's caveat (2010) that the winners' authority is accepted. Yet they are still affected by the Colombian regime's weakness to uphold citizenship capabilities.

This chapter stressed that the electoral component of democracy was never genuinely at risk during the twentieth century: authoritarian leadership was merely transitory, the two-party system of civilian leadership was deeply entrenched, and the 1991 constitution even broadened the spectrum of viable political options running in national elections. President Álvaro Uribe was the first candidate running outside the traditional two-party system to win office. His opponent was former Constitutional Court judge Carlos Gaviria of the leftist Polo Democrático Alternativo. Elections results are respected, as is the authority to govern. In Bogotá, far left candidates have even won elections. While that has not occurred in the national arena, although with Gustavo Petro (former *guerrillero* and Bogotá mayor), they have come close in 2018. Thus, the electoral component of democracy has for most of the twentieth century been respected, and since 1991 has notably improved.

Despite the apparent soundness of the electoral component of democracy, violence and violent actors have had a consequential effect on voting behavior—again without directly undermining institutions of liberal democracy. Gallego has shown that these “differential effects of violence on electoral outcomes are the result of deliberate strategies followed by illegal groups, which in turn result from military conditions that differ between them” (2018: 601). Until 2006, guerrilla violence tended to decrease turnout while paramilitaries did not have the same effect. This is because guerrillas attempted “to sabotage elections, while paramilitaries [had established] alliances with certain candidates” (Gallego 2018: 601). Despite the conclusion of demobilization processes, the current state of Colombia's democracy indicates that the electoral component of democracy is still besieged by armed actors and undermined by clientele networks. The aforementioned assassinations of social leaders peaked during important pre- and post-election periods: “the peace accord plebiscite in 2016, the beginning of the presidential election campaign in December 2017, before the first and second rounds of presidential elections in May and June of 2018, peaking in July 2018, after the second round of the presidential elections” (CINEP 2018: 16).

As with the *para-institutionalization* of Congress, these democratic defects have not evolved in an institutional void. Corrupt elites at the regional level also influenced elections unduly with the help of armed actors in order to further their interest, namely, to exploit natural resources. Ramirez Gallego found a correlation between natural resources, weak institutions, and corruption at the subnational level: a correlation that

showed in an increase of vote-buying incidents from 327 municipalities in 2007 to 544 in 2011 (out of a total of 1,101). A 2011 reform to renationalize rents has not fundamentally altered that relation (Ramirez Gallego 2017). The phenomenon of *parapolíticos herederos* (heirs to *para-políticos*) further contributes evidence that the corruption around the exploitation of natural resources and regional elections builds on similar clusters as the *parainstitutionalization* exposed in the *parapolítica* scandal. *Parapolíticos herederos* are family members of jailed Members of Congress that accede to the helm of the political patronage webs and remain closely linked with illegal armed groups. According to the Foundation for Peace and Reconciliation (PARES), these “networks of power have dominated regional politics over the last thirty years and, with few exceptions, have been nourished by illegal money, influence peddling and clientelistic management of institutions.”<sup>18</sup> The presence of hereditary networks of power surfaced in both Congressional elections in 2014 and 2018. In 2014, only nine of the thirty-five candidates for Senate and Chamber investigated by the Supreme Court for alleged links with paramilitary groups lost their election.<sup>19</sup> On the lists for Congress in 2018 were numerous names with evident relations to illegal forces, paramilitaries and post-demobilization groups,<sup>20</sup> in addition to candidates whose names appeared in the context of the Odebrecht scandal. León Valencia and Ariel Ávila write in *Semana* that “in a good part of the country are serious problems with local democracy, [because] there are no political alternatives to . . . oligarchic families as the focal point of local politics.”<sup>21</sup>

Finally, there is another important caveat of the persistence of *parapolíticos herederos* as a symptom of the intrinsically blurred line between legality and illegality and its damage to the rule of law: those institutions upholding core principles of accountability and criminal due process appear to have succumbed to pressures of illegality. In what has become known as the Toga Cartel, members of the Supreme Court of Justice, the anticorruption section of the Attorney General’s office were charged with “conspiracy [charges] to launder money with the intent to promote bribery and corruption in Colombia” for soliciting bribes from accused *parapolíticos*.<sup>22</sup> In addition to the Toga Cartel, the Odebrecht scandal also indicated that institutions that had evidenced their autonomy during the *parapolítica* affair had been co-opted by particularized and criminal interest. In 2018, then-attorney general of the nation Nestor Humberto Martínez, who had been the legal advisor for Odebrecht’s Colombian subsidiary in Colombia, Grupo Aval, was found to have been sitting on evidence against Odebrecht. Incidentally, he appears to be also involved in the vote-rigging scandal.

In sum, there is mounting evidence that after the *parapolítica* scandal, criminal justice institutions are not immune to co-optation by criminalized interests. Thus, in contrast to judicial activism enforcing constitutional

guarantees against majoritarian appeals, judicial activism of the highest criminal court did not prove as effective countering citizenship defects around oligarchic enclaves in the long run.

### Civil-Military Relations in Colombia

Civil-military relations also reflect the strength of Colombia's constitutional order, even as oligarchic enclaves persist at the sub-national level. Military leaders never put the validity of the constitutional in doubt, yet some have been found guilty of various human rights violations, including war crimes and crimes against humanity.

Even before the 1991 constitution, the military has always been obedient to civilian leadership. In sharp contrast to the dictators in the Southern Cone, military leaders in power in Colombia (General Reyes, 1905–1909, and General Rojas Pinilla, 1953–1957) were not only rare, but also behaved very differently. In fact, these dictators were put in place by civilians as stewards for periods of civilian-rule impasse and were forced by the same civilians—sometimes with the help of the military as an institution—to retreat to the barracks (Hartlyn 1988). Constitutions in Colombia never gave the military the same emergency powers as those in other South American nations: they were not constitutions of tyranny (Loveman 1994); nor has the military, as an institution, attempted to usurp civilian functions in the management of the economy and politics to depoliticize an increasingly mobilizing population as happened in the bureaucratic authoritarian regimes (O'Donnell 1973).

Nevertheless, the endemic violence and persistent internal conflict created an institutional autonomy, and lack of accountability for the military, that has resulted in widespread human rights abuses. Evidence are the systematic killings of the Patriotic Union Party in the 1980s, the collaboration with paramilitary groups in the 1990s resulting in massacres,<sup>23</sup> and the perverse effects of a “body count policy” in the military that produced “false positives.” In 2021, the Special Jurisdiction of Peace (JEP) found that “at least 6,402 people were murdered by the country's army and falsely declared combat kills in order to boost statistics in the civil war with leftist rebel groups.”<sup>24</sup> Facetiously, reports indicated that the Duque government had considered reinstating such a body-count policy.<sup>25</sup> Equally as perturbing, sectors of the security apparatus appear to be involved in the alliances that systematically murder social leaders. Such a body count policy matches past mistakes of privatizing security by allowing citizens to arm themselves in self-defense against armed actors. Together, both indicate that institutional learning has not occurred, because behind such privatizing strategies are important vested interest.

## Freedom of the Press

Freedom of the press is respected in Colombia and has even found ways to counteract the defects inflicted by violence and armed actors by channeling reporting from violence-prone regions to the capital, where these effects have historically been diminished (Duncan 2018). Although the concentration of press ownership in the hands of the elite poses a risk to the freedom of the press, it has not systematically damaged the free speech of journalists, as most media outlets freely report on the political scandal of a given day. *Semana* appears to be an exception, bowing to new owners who are keen to emulate Fox News and take a decisively political—*uribista*—turn. Nevertheless, the most systematic violations of the freedom of the press follow from the violence of armed actors and the specific institutional context besieging Colombian’s peripheral areas.

A Constitutional Court judge attested that *Semana* reporting showed a high degree of sophistication during the *parapolítica* scandal—a factor that certainly contributed to the public discourse at the time.<sup>26</sup> Claudia López’s reporting in *Semana* on atypical voting patterns was a key cataclysm for the political scandal to unfold. It then led to the initiation of criminal investigations by the Supreme Court; the latter was key for creating “legal facts” that eventually set the *parapolítica* scandal apart from other political scandals (Boesten 2022).

Reporters Without Borders (2020) writes that “the media’s close links to Colombia’s business empires and political class undermines their editorial independence and reinforces self-censorship.”<sup>27</sup> It is true that powerful families own key national publications while at the same time occupying key positions in the legislature or executive—most infamously the Santos family that owned *El Tiempo* and now also has a stake in *Semana*. However, it does not necessarily have an adverse effect on the independence of reporting. As said, *Semana* was a key publication pushing the *parapolítica* revelations, and *Semana* and *El Tiempo* covered the Odebrecht scandal as it affected part of the Santos government in 2014 and 2016 (Duncan 2018). Generally, Colombian journalists have a very high professional ethos for institutional independence, withstanding political pressures and even existential threats from violent actors. The problem is not that journalists do not cover scandals, but rather that these remain “flowers of the day,”<sup>28</sup> almost forgotten the next day. The *parapolítica* was an exception precisely because it moved from political scandal covered in the press to criminal investigations resulting in “legal facts” (Boesten 2022).

The most systemic defects to the freedom of the press arise from the oligarchic defects at the sub-national level. As Reporters Without Borders writes: “Colombia continues to be one of the Western Hemisphere’s most dangerous countries for journalists, who are still the frequent targets of

death threats, attacks and murder,” when covering public order, the continuation of the armed conflict, and corruption. Permanent threats to journalists doing their work most often originate with BACRIMs, while the ELN, the country’s last and now most powerful guerrilla group, reacts “violently to attempts by alternative or community media to cover their activities, leading to the creation of information ‘black holes’ in rural areas.”<sup>29</sup>

## Conclusion

Colombia’s democracy remains vulnerable to exploitation by armed actors. Of course, the main structural factor driving the recurrence of these vulnerabilities is the immense profits generated by the illicit economy, combined with deep socioeconomic inequalities concentrated in rural areas. The evidence also indicates, however, that regionally concentrated informal institutions impose limits on collective action and democratic decisionmaking. In Colombia, the impediments to democracy are found in the incapacity of the nation’s institutions to protect and enable citizenship rights and capabilities. In the course of the internal conflict, the Colombian state abdicated that capacity, first involuntarily, to the guerrillas, and then, voluntarily, to the various incarnations of paramilitaries as part of a security policy that built on privatizing security in peripheral regions (Gutiérrez-Sanín and Barón 2006). Human rights violations are a systematic outcome of this incapacity, as are oligarchic enclaves predominantly concentrated in peripheral areas of the country that are central to the illegal economy.

The strengths of Colombia’s democracy emanate from its constitutional order. Since elections are held regularly, and the outcomes of electoral contests remain uncertain, Colombia remains a democracy. In some aspects—specifically those conditions pertaining to constitutional jurisprudence on social, cultural, and liberal rights—Colombia experienced groundbreaking advances. It remains true, as Bejarano and others have argued before, that the *formal* institutional playing field remains largely intact. Yet, the defects from the extra-institutional playing field also remain intact—albeit at a lower level than in the late 1990s and mid-2000s, when paramilitaries and guerrilla were at the height of their power.

Formally, Colombia is a fully liberal constitutional regime that is capable of withstanding majoritarian pressures, but weak in combating oligarchic tendencies that undermine foundational democratic rights in specific territorial pockets. Whereas deliberative practices in the constitution-making processes could curtail majoritarian pressures, they were less effective in constraining oligarchic tendencies within defective democracies. Including citizenship capacities provides a fuller picture of

democracy and has important policy implications. A major challenge for Colombia is to democratize subnational political arenas. Social unrest at the subnational level is largely due to extreme inequality, lack of economic opportunities, and exclusion from political power. Unfortunately, the systematic assassinations of social leaders, and the persistence of vote buying, suggest that these problems remain endemic.

## Notes

1. Only twice in the twentieth century did a general assume the presidency (General Reyes in 1905 and General Rojas Pinilla in 1953), and both times to assert calm after prolonged periods of interparty violence (Hartlyn 1988), and without the institutional caveats of the bureaucratic-authoritarian model found elsewhere in South America (O'Donnell 1973).

2. See Cameron's recent work (2021b) on corruption and oligarchy.

3. Colombians gave those associated with the drug trade the name *traquetos* after the onomatopoeic sound of their guns: "trrr trrr trrr." When drug lords looked to the paramilitary groups for help and protection from the state, they had no choice, but to relinquish control over the business, because the latter had the guns and territorial control.

4. See Warren's critique (2017) of model-based strategies in democratic theory.

5. All the key elements of a critical juncture were present: the largely oligarchic political structures around a traditional elite (antecedent conditions), the equilibrium-puncturing effects of the cocaine economy (exogenous shock), creating critical conditions in the form of extra-judicial killings of political activists (crisis), and an atypical coalition of actors producing atypical political institutions (juncture).

6. This policy evolved around three basic elements: (1) enforcing a clear monopoly of violence by eliminating the state's internal enemies; (2) creating tightly knit social bonds between rulers and ruled; and (3) inviting direct foreign investment for capitalist development; interview with senator of the Republic of Colombia, March 12, 2013.

7. Interview with senator of the Republic of Colombia, March 12, 2013.

8. *Semana* showed that Uribe used references to the *Estado de Opinión* more than hundred times in ten months before the decision in 2009. In that year, he opened the legislative session in Congress with a speech, in which he defended the *Estado de Opinión* as superior to the *Estado de Derecho*. See *Semana*, "La Estrategia del Estado de Opinión," August 14, 2009, <http://www.semana.com/nacion/articulo/la-estrategia-del-estado-opinion/106304-3>.

9. Rodrigo Uprimny, "¿Estado de Opinión o de Derecho?" *El Espectador*, August 17, 2009, <https://www.elespectador.com/opinion/columnistas/rodrigo-uprimny/estado-de-opinion-o-de-derecho-column-156600>.

10. Author interviews with Constitutional Court judges, 2012–2013.

11. This lack of legality developed not solely in the geographical sense as margins existed in remote areas of the country, but also in the political and cultural sense, as exclusion affected marginalized groups (*campesinos*, Indigenous, and Afro-Colombians) more prominently than others.

12. The original contract can be found here: "Texto Original del 'Acuerdo de Ralito,'" <http://www.derechos.org/nizkor/corru/doc/ralito1.html>.

13. “Testimony: How Group on US Terror List helped Uribe win Colombia’s 2002 Elections,” March 5, 2021, <https://colombiareports.com/testimony-how-group-on-us-terror-list-helped-uribe-win-colombias-2002-elections>. See also Tribunal Superior del Distrito de Medellín, Sala de Justicia y Paz, “Javier Alonso Quintero ‘Manguero’ y otros Bloque Metro ACCU,” February 12, 2020 <https://www.fiscalia.gov.co/colombia/wp-content/uploads/2020-02-12-javier-alonso-quintero-agudelo.pdf>.

14. It is important to stress that—when analyzing citizenship capacities—there are inherent barriers to full citizenship in the context of nonstate armed order. Regardless of the time horizon of the armed actor or its propensity to develop quasi-institutional linkages with local communities, the resulting patterns of behavior in the context of nonstate armed order cannot be equated with institutions in the conventional sense because armed actors do not subject themselves to specific institutional constraints (Boesten and Idler 2021).

15. The intense antagonism between Uribe and Santos is somewhat difficult to comprehend. Santos served as Uribe’s minister of defense and was far from a dove. His policy toward the FARC was not as heavy-handed as Uribe’s but did not constitute an open arms approach either (military operations continued to be executed). Uribe, too, had sent out feelers toward the FARC-EP for a political solution at the end of his presidency. Thus, it is not entirely clear what drove Uribe’s intense antagonism that eventually resulted in his “No!” campaign against the Havana Peace Treaty.

16. Adam Isacson, “What Ivan Duque’s Win Means for Securing a Lasting Peace in Colombia,” June 18, 2019, <https://www.wola.org/analysis/ivan-duque-new-president-colombia-securing-lasting-peace>.

17. Fundación Ideas Para la Paz, “Agresiones y Homicidios de Líderes Sociales,” 2019, <http://ideaspaz.org/media/website/infografia-lideres.pdf>.

18. “Herederos de Odebrecht y Vínculos con Ilegales en Listas a Senado y Cámara, 2018,” December 17, 2017, <https://pares.com.co/2017/12/12/presencia-de-mafias-de-corrupcion-en-las-listas-a-senado-y-camara-2018>.

19. “Reeligen a 26 Congresistas Investigados por la Corte por Parapolítica,” March 11, 2014, <https://verdadabierta.com/reeligen-a-26-congresistas-investigados-por-parapolitica>.

20. “Herederos de Odebrecht y Vínculos.”

21. “Herederos del Mal,” April 8, 2014, <https://www.semana.com/nacion/articulo/herederos-del-mal/397990-3>.

22. “Colombia Judicial Corruption Scandal Expands with Fmr Top Judge’s Arrest,” September 21, 2017, <http://www.insightcrime.org/news-briefs/colombia-judicial-corruption-scandal-expands-fmr-top-judge-arrest>.

23. Several human rights organizations and the Inter-American Court of Human Rights have documented the close cooperation between armed forces and CONVIVIR paramilitary groups in war crimes and crimes against humanity (see Human Rights Watch 1997, 1998; Ávila Martínez 2010: 113; Inter-American Court of Human Rights 2006).

24. “Colombia Tribunal Reveals at Least 6,402 People Were Killed by Army to Boost Body Count,” *The Guardian*, February 19, 2021, <https://www.theguardian.com/global-development/2021/feb/19/colombia-farc-tribunal-false-positivist>.

25. “Colombia Army’s New Kill Orders Send Chills Down Ranks,” *New York Times*, May 18, 2019, <https://www.nytimes.com/2019/05/18/world/americas/colombian-army-killings.html>.

26. Author interview with Constitutional Court judge, March 2013.

27. "Violence and Self-Censorship," 2020, <https://rsf.org/en/colombia>.

28. Fernando Cepeda Ulloa, professor of politics at the Universidad de los Andes, provided me with this expression to describe the transience of corruption scandals in the public discourse in Colombia.

29. "Violence and Self-Censorship."

# 8

## Enabling—and Impeding— the Rights of Indigenous Peoples

*Jason Tockman*

AT THE TURN OF THE MILLENNIUM, DEMOCRACY SEEMED TO BE SURGING through South America, with elections, largely free and fair, becoming the norm for choosing national leaders. Weary polities were also turning away from corrupt political parties that had lost touch with those they purported to represent, and vibrant social movements breathed new life into anemic systems of representation, spurring a more participatory politics into the democratic mix. The Workers Party took control of Brazil; Venezuela marshaled its oil wealth toward a transformative politics that married socialist ideology and the anticolonial ideas of Simón Bolívar; and the Movement Toward Socialism (MAS) won Bolivia's presidency with an Indigenous leader that made a credible claim to be the instrument of social movements. Parallel "pink tide" projects played out in Uruguay, Paraguay, Argentina, and Ecuador, reinvigorating political systems with deeper conceptions of democracy and citizenship. Social movements, which frequently included Indigenous movements, sought to maintain their protagonism as left-leaning administrations varyingly courted, incorporated, and co-opted them. The political mood of the day, inflected by a spirit of inclusion and a discourse of revolution, created space for Indigenous peoples to advance goals of self-determination, cultural recognition, and communitarian democracy—Indigenous rights principles and practices that found their way into many countries' new constitutional and legal frameworks.

Nowhere were the conditions for expanded Indigenous rights more propitious than Bolivia. Indigenous peoples, who comprise over 60 percent of the country's population and were at the forefront of the 2000–2005 social movement uprisings against neoliberal programs, elected one of their own

as president in 2005. They were centrally involved in the Constituent Assembly that enshrined communitarian democracy in the 2009 constitution—alongside representative and participatory dimensions. Bolivia also became the first country to enact the 2007 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) into law and began to allow Indigenous communities to establish autonomous systems of self-government, as outlined in the constitution. But even in Bolivia, Indigenous rights have run into serious political obstacles, as a consequence of the MAS's ambition to centralize political power and drive an economic program based on natural resource exploitation, and the party's attendant flagging interest in the rights of Indigenous peoples. Though there were early signs of this diminution, few were prepared for the 2011 political tumult that would follow President Evo Morales's project to construct a highway through the Isiboro Sécore Indigenous Territory and National Park (TIPNIS) without consulting the communities that live there.<sup>1</sup> When thousands of Indigenous people and their allies embarked upon a 600-kilometer march from Trinidad to La Paz to protest the highway's impact on Indigenous territory, Bolivia's armed forces violently assaulted and dispersed the procession, gassing and beating the marchers, injuring seventy-four people (Fundación Tierra 2012). The dramatic mobilizations against the highway—empowered by the government's early discourse and actions (from 2006 to 2009)—and the government's repression and belated, inadequate consultation of affected Indigenous communities, showcase the tension between contemporary Bolivian democracy and Indigenous rights, and illustrate how the country's democratic system has both expanded and limited those rights. As we will see, the Bolivian case is by no means unique in South America.

In this chapter, I explore how representative democratic systems in contemporary South America both enable and, more significant, impede Indigenous rights to self-government and the political participation of Indigenous peoples. Surveying the relationships between democracy and Indigenous rights in Bolivia and other Andean countries, we see that colonial legacies have left Andean nation-states rife with obstacles to the exercise of Indigenous rights. Contemporary initiatives to include Indigenous peoples in nation-states' democratic systems or allow for the exercise of communitarian democratic systems are hamstrung by historical relations based on inequality, discrimination, denial and exclusion. Consequently, advances in Indigenous rights are generally limited to the "soft rights" of language and cultural recognition, while the "hard rights" of self-determination, territorial control, and free, prior and informed consent are denied (see Lightfoot 2016). Indeed, governments appear to justify refusal to meaningfully address the latter with modest measures on the former. Thus, from a standpoint of Indigenous inclusion and the practice of Indigenous

systems of government, we might interrogate whether or not *all* democracies emerging from extensive periods of colonization are inherently deficient democratic regimes. While it is beyond the scope of this chapter to answer that question for all times and places, the survey of three Andean countries illustrates the durable tensions between representative democratic systems and Indigenous rights.

This chapter begins by reviewing the global and regional contexts of Indigenous rights, exploring how both the right to self-government and the capacity to participate in nation-states' political systems have evolved in recent decades. This is followed by a discussion of how democracy has developed in Latin America, and a review of some recent democratic innovations in the region that might lead to greater Indigenous inclusion. The chapter then explores the tensions between representative democracy and Indigenous rights in the Andean region, drawing from observations from Bolivia, Ecuador, and Peru. It concludes by highlighting some ways that democratic systems could better support Indigenous self-government and participation in public affairs.

## **Contemporary Indigenous Rights**

In the latter half of the twentieth century, political organizing by Indigenous peoples around the world led to a growing awareness that nation-states had failed to recognize Indigenous peoples' rights, respect their cultures, or make serious efforts to improve their socio-economic conditions. Consequently, contemporary notions of Indigenous rights have emerged and developed substantially since World War II in a manner that has, although imperfectly, supported many of the objectives of Indigenous peoples (Anaya 1996). At a global level, this contestation has played out most significantly in United Nations forums, with governments gradually coming to accept that more needed to be done to address the perennial "Indian question" of how states contend with the peoples that existed prior their establishment. Numerous Indigenous nations in South America were leading protagonists in these international efforts,<sup>2</sup> as they sought to secure greater recognition of their cultures, control over their territories, and, ultimately, self-government over their internal affairs and relations with the states that had engulfed them.

The first step in the global recognition of Indigenous rights came in 1957 with the International Labour Organization's (ILO) Convention 107, which encouraged states to take measures to protect the human rights of members of Indigenous populations; however, Indigenous peoples were not meaningfully included in the debating and drafting of the convention. The result was an international rights standard with "an inherent assimilationist

orientation, which was typical of its time” (International Labour Organization 2013: 4). The text of Convention 107 emphasized the rights of *individual* Indigenous people and paid only secondary attention to the protection of *group* rights—for example, self-government or territorial control (Niezen 2003). In the decades that followed, Indigenous peoples increasingly asserted themselves at international gatherings and established an expanding pattern of international collaboration (Xanthaki 2007), which contributed to the establishment of the United Nations (UN) Working Group on Indigenous Populations in 1982 (Anaya 1996). In 1989, the International Labour Organization replaced Convention 107 with Convention 169, shifting the discourse around Indigenous peoples from one of assimilation into broader society to respect for Indigenous cultures (Van Cott 2000). The cornerstones of Convention 169 were Indigenous peoples’ “rights to be consulted and to participate in decision-making” related to measures, policies and development programs that could affect them (International Labour Organization 2013: 11). However, beyond Convention 169’s general statements that ratifying governments should respect Indigenous peoples’ institutions, use of land, and management of resources, the convention did not address Indigenous peoples’ right to self-government. Moreover, Convention 169 has only been ratified by twenty-three countries (fourteen of which are in Latin America—including Bolivia, Ecuador, and Peru).

The aforementioned Working Group on Indigenous Populations produced the Draft Declaration on the Rights of Indigenous Peoples (Stavenhagen 2005), a version of which would eventually be approved by the UN General Assembly in 2007. The UN Declaration on the Rights of Indigenous Peoples was approved by a vote of 144 states in favor, 4 against, and 11 abstaining.<sup>3</sup> The declaration goes significantly beyond Convention 169 and other earlier conventions, committing the countries that support it to recognize and protect Indigenous peoples’ self-determination and their rights as both individuals and collectives, and to protect their rights to land (Lightfoot 2010). The cornerstone of the declaration is its inclusion of self-determination, which finally affirmed the most important claim made by Indigenous peoples worldwide (Xanthaki 2007). While the declaration is not an international treaty and is thus non-binding (Stavenhagen 2005), it is “the most comprehensive and advanced of international instruments dealing with Indigenous peoples’ rights” (Charters and Stavenhagen 2009: 10). For Sheryl Lightfoot, it signifies an “international consensus on the minimum standard of Indigenous rights that states are obligated to recognize and protect” (2010: 84).

The progressive amplification of Indigenous rights reverberated throughout Latin America and was especially pronounced in the Andean region. During the latter third of the twentieth century, mobilizations by Indigenous peoples along explicitly ethnic lines in the Andes rose sharply. Indigenous groups reclaimed Indigenous identities and demanded that their

rights to territory and their own systems of self-government be recognized and respected by states (Yashar 2005; Lucero 2008). In Bolivia, during the late 1960s and 1970s, the Katarista movement in the highlands asserted an Aymara identity (alongside a peasant class identity), built alliances with other social sectors, and gained control of the state-controlled peasant unions, transforming them into the United Confederation of Rural Workers of Bolivia (CSUTCB). Two decades later, a lowland Indigenous movement emerged, leading to the 650-kilometer March for Territory and Dignity in 1990 that pressured the Bolivian government to enact a new agrarian reform and create a legal foundation for the establishment of Indigenous territories. In Ecuador, lowland and highland Indigenous peoples united in 1986 to form the powerful national-level Confederation of Indigenous Nationalities of Ecuador (CONAIE), which led a massive mobilization that shut down roads and suspended commerce in 1990. And in Colombia, Indigenous communities successfully pressured the 1991 Constituent Assembly to include in the new constitution Articles 286–287, which provide for Indigenous territorial autonomy (Yashar 2005). The scale and visibility of these movements across Latin America, the growing public perception of legitimacy of Indigenous claims, and the development of global Indigenous rights norms that exerted external pressure for domestic reform have given the idea of greater political inclusion of Indigenous peoples considerable purchase throughout South America.

Yet states have consistently refused to deliver the “hard rights” of self-government, territorial control, and free, prior, and informed consent, opting instead to expand the low-hanging multicultural fruit of “soft rights”: recognition of culture and arts, official acknowledgment of Indigenous languages, and elevation of Indigenous symbols to official status (Lightfoot 2016). Instead of the UNDRIP’s higher standard of free, prior, and informed consent, Latin American governments have pursued consultation with Indigenous communities, more in line with Convention 169—although not always prior to the approval of a project, nor in a manner free of coercion. In his study of multiculturalism in Guatemala in the 1990s, Charles Hale aptly characterized the trade-off as a “cultural project [that] entails pro-active recognition of a minimal package of cultural rights, and an equally vigorous rejection of the rest” (2002: 485).

## **Democracy in Latin America**

The world’s historical arc of democracy is dominated by the exclusion of Indigenous peoples; their gains in rights and recognition have been marginal and only quite recent. In what Guillermo O’Donnell called a “reluctant acceptance of the inclusive wager,” the history of democracy in

the global North is “punctuated by the catastrophic predictions and the violent resistance of the privileged sectors of society opposing the extension of political rights to ‘undeserving’ or ‘untrustworthy’ sectors”; meanwhile, in the global South, “by means often more violent and comprehensively exclusionary, this same extension also has been resisted” (2004: 25).

In Latin America, the regimes that emerged from authoritarianism in the 1970s and 1980s were generally populist, delegative,<sup>4</sup> or both. Marked by clientelism, patronage, and weakly institutionalized party systems, these systems have conformed neither to the prescriptions nor expectations of liberal models of representative democracy (e.g., Huntington 1991; Diamond and Morlino 2004). With few exceptions, Latin American countries have also fallen short on the republican elements of democratic regimes, with executive power rarely checked by other branches, the rule of law unequally applied, and periodic military interference in civilian affairs. Indeed, Eurocentric assumptions about the effectiveness of the separation of powers, how bureaucracies should function, and civilian control of the military have proven so unrealistic that O’Donnell observed that the idea of a “clear and consistent *corpus* of democratic theory” that can be transposed from established to emerging democracies is unjustified (2007: 2).

In the Andes, representative democratic governments have historically denied the existence of Indigenous peoples and sought to assimilate them under national and peasant identities. This is evident in the early democratic experiments of Bolivia (1956–1963), Colombia (1942–48, 1958–present), Ecuador (1948–1960, 1979–present), Peru (1945–47, 1956–1961, 1964–1967, 1980–1991), and Venezuela (1946–1948, 1958–1998).<sup>5</sup> For example, in Bolivia, the National Revolutionary Party, which brought democracy to Bolivia and held power from 1952 to 1964, imposed on all Bolivians a uniform *mestizo* identity. Indigenous peoples, who had previously been pejoratively branded *indios*, were officially converted into *campesinos* (peasants) and organized by a corporatist state into peasant unions (Kohl and Farthing 2006). While corporatism delivered some political rights to communities that had previously been excluded (the right to vote, vertical linkages to ministries), their cultural identities and communal practices were officially rejected. Similarly in Ecuador, the corporatist regime that was instituted in the middle of the twentieth century had as a central objective “to make Indians into Ecuadorian peasants . . . to subordinate Indians to a national project” and “supplant traditional Indigenous communities with more ‘modern’ forms of governance” (Yashar 2005: 88–89). While many of the laws that established Ecuador’s corporatist system were introduced under authoritarian regimes, they were sustained by democratically elected presidents, along with attendant assimilationist policies, as highlighted by President Galo Plaza’s (1948–1952) *Convenio de Cooperación* with mis-

sionary groups that fanned out into the Amazon to “christianize” and “civilize” Indigenous peoples (Yashar 2005: 117).

Corporatism neither authorized Indigenous systems of self-government, nor included Indigenous peoples *qua* Indigenous peoples in the politics of the state. However, as Deborah Yashar argues, corporatist regimes “unwittingly provided autonomous spaces that could shelter rural communities from state control” (2005: 57). While corporatism required Indigenous communities to present as peasants and, in official contexts, to organize themselves within union structures that were at odds with Indigenous norms, it also provided access to state resources, and, due to the limited capacity of public institutions, local spaces of autonomy in which Indigenous identities and practices could be sustained beyond the reach of the state. This helps explain why the wave of neoliberalism that washed over Latin America in the 1980s and 1990s posed multiple threats to Indigenous peoples. Neoliberal policies, introduced largely by democratic regimes, suspended the class-based associations and advantages upon which rural communities had come to depend (e.g., land distribution, state subsidies, agricultural credits) and renewed challenges to communal control of territory at the same time that socioeconomic conditions worsened for large swaths of counties’ populations, including many Indigenous people. These factors led to a growing resistance to neoliberal programs in the Andes, which would eventually shift politics to the left, bringing to power presidents that promised cultural and democratic revolutions.

Latin America’s pink tide that began in 1998 and spanned around a decade and half brought with it a couple of democratic innovations that are specifically designed to foster Indigenous inclusion and self-government. One is the legal establishment of autonomous Indigenous territories, as authorized in the constitutions of Bolivia and Ecuador, in which the structures, functions and names of local government are based on Indigenous customs. Strategies for development—economic, social, and cultural—are also determined by these majority-Indigenous communities, although the state retains control of mineral resources. Bolivia has advanced much further in the construction of these territories, with three already approved and beginning to function as such, although there have been many bureaucratic impediments to securing self-government. Ecuador lags behind Bolivia in the establishment of Indigenous territories because the state has not supported their creation, despite the efforts of at least three Indigenous communities (Cordero Ponce 2019).<sup>6</sup> The government has both refused to incorporate Indigenous territories into the organization of the Ecuadorian state and declined to provide those pursuing autonomy with the financial and technical resources that would be necessary for autonomous governments to become established and function (Martínez Novo 2013; Cordero Ponce

2019). In Peru, one Indigenous Nation—the Wampis—has declared self-government, although its assertion has not been recognized by the state.

The other leading strategy for Indigenous inclusion involves the establishment of designated Indigenous seats in national or subnational legislatures, an arrangement that has been written into the constitutions of Bolivia and Venezuela. Whereas Venezuela's 167-member National Assembly includes three seats for Indigenous people, Bolivia's 130-member Plurinational Legislative Assembly has seven Indigenous seats, as well as designated Indigenous seats at the departmental level.<sup>7</sup> In Bolivia, each of the seven Indigenous districts aggregates all Indigenous Nations within a specific department. However, the selection process has not occurred according to Indigenous norms; rather, candidates are put forward by Indigenous Nations or political parties and are chosen by simple majority. Controversially, political parties—especially the MAS—have played a significant role in their selection. Indigenous groups have also challenged the low number of seats designated for Indigenous people, considering more than half of Bolivians identify as Indigenous (AINI 2013). Bolivia's Electoral Regime Law also requires that each of Bolivia's nine departments include Indigenous representation in their legislatures, and these are selected according to Indigenous norms (Electoral Regime Law 2010: art. 66[II]).

## **Representative Democracy vs. Indigenous Rights**

In the Andes, as throughout the region, representative democratic systems have generally been constructed over the top of or in tension with collectivist tendencies—be they Latin America's common corporatist arrangements, precolonial systems of self-government, or both.<sup>8</sup> Consequently, O'Donnell's characterization of the "reluctant acceptance of the inclusive wager" is evident in the prolonged difficulty that Latin America's democratic regimes have had in politically incorporating various social and cultural groups, including organized and informal labor, women and particular ethnic groups (Collier and Collier 2002; Yashar 2005). The challenge is compounded for Indigenous peoples, who have frequently rejected incorporation into the larger polity, or rather rejected the form of incorporation that was on offer: assimilation and, later, multiculturalism. As the following survey of three Andean countries illustrates, democratic systems of Latin America have not allowed for communitarian democratic processes of Indigenous self-government and have not created space for Indigenous peoples' participation in the politics of the nation-state, with few exceptions.

## Bolivia

For many observers, Bolivia after 2005 may have seemed a perfect storm of political and social circumstances to assess how much space a contemporary democratic nation-state of colonial origins can allow for the exercise of Indigenous rights. In fact, the literature on Bolivian politics analyzing this period is replete with references to “even in (plurinational) Bolivia,” whereby scholars note that the alignment of elements that appear to lend themselves to a robust expansion of Indigenous rights—but which did not produce that result (Agrawal et al. 2012; Postero 2015; Gustafson and Fabricant 2015; Postero 2017; Gardner and Richards 2019). The government’s brutality toward the peaceful march against the highway through TIPNIS was both a key point of inflection and the most telling example of Bolivia’s unfulfilled promise of self-determination by Indigenous peoples, yet it is far from the only indicator of Bolivian constraints on Indigenous rights.

In 2006–2007, as the MAS-dominated Constituent Assembly negotiated what would become Bolivia’s new constitution, the country’s leading Indigenous and peasant organizations came together under the Unity Pact to advance a strong Indigenous rights agenda. The Unity Pact proposed that the Bolivian state construct a new collective political subject—the Indigenous first peoples’ peasant, *indígena originario campesino*—who would be enshrined in a plurinational constitutional framework, in which Indigenous communities could construct self-determining territorial units called *autonomías indígenas originarias campesinas* (Garcés 2011). The pact’s proposals were influential, and many of their proposals were incorporated in the constitution that the Constituent Assembly approved in 2007 (Zegada et al. 2011). Additionally, the constitution established electoral districts in which legislative seats are to be held by Indigenous people, selected exclusively by Indigenous peoples, both at the national and departmental levels. However, before the constitution would be voted on and approved overwhelmingly by Bolivians, political pressures from the eastern part of the country prevailed upon the government of Evo Morales to amend more than a hundred articles in the course of congressional negotiations between the MAS and conservative opposition lawmakers (Centellas 2013).

Several of the changes to the constitution were highly consequential for Indigenous peoples’ political participation and territorial control. For example, Indigenous electoral districts were prohibited from crossing departmental boundaries and they were restricted to departments where Indigenous people are a minority.<sup>9</sup> Meanwhile, new limits placed on the size of agricultural land holdings (no greater than 5,000 hectares), which were aimed at promoting land redistribution and greater control by local, often

Indigenous communities, were made nonretroactive, blunting the potential for agrarian reform (Garcés 2011). By the time Bolivians voted on the constitution in 2009, “the scope of the reforms fell below the expectations of many indigenous actors” (Centellas 2013: 89).

Greater obstacles to Indigenous self-government followed, both through secondary legislation and administrative decisions that progressively constrained the construction of *autonomías indígenas originarias campesinas*. Having assessed that Indigenous self-determination might pose a threat to the government’s natural resource-driven economic nationalism, as well as the MAS’s ambitions to sustain and centralize political power, Morales lost interest in enabling Indigenous self-determination (Tockman 2014). The government established a multitude of lengthy steps and bureaucratic obstacles that communities would have to traverse to establish the *campesinas*, causing processes to slow to a crawl. In some cases, construction of the *campesinas* was suspended altogether. By 2019, a decade after Bolivia’s Constitution first authorized the construction of self-governing Indigenous territories, of the three dozen Indigenous communities that have initiated that process, only three have achieved that goal: the Guaraní municipality of Charagua, the Quechua territory of Raqaypampa, and the Uru municipality of Chipaya.

The case of Charagua, the first such *campesina* to traverse all of the procedures and secure final approval from the Plurinational Constitutional Court (Tribunal Constitucional Plurinacional [TCP]), is indicative of the complexity of constructing Indigenous self-government in Bolivia. In the TCP’s review of the constitutionality Charagua’s system of self-government (its “autonomy statute”), the court ruled that twenty-one articles needed to be amended. Most significant, the TCP decided that that the broad powers granted to Charagua’s new deliberative assembly (called the Ñemboati Guasu) to oversee the executive and legislative bodies violated the country’s constitution and insisted that the statute must delimit the scope of that oversight. It also rejected the capacity of Charagua’s legislature to instruct the executive to implement projects, which the TCP argued would transgress the constitution’s “institutional logic” (TCP 2013: 59). In other words, the Guaraní of Charagua had to modify their system of Indigenous self-government to better align it with republican conceptions of government where powers are separated and distinct among various branches. Consequently, what is emerging in Bolivia’s first Indigenous autonomy is a “hybrid political system in which power is balanced between an executive organ (as required by Bolivian law) and a deliberative assembly (the Ñemboati Guasu, which operates according to Indigenous custom)” (Postero and Tockman 2020: 1). Postero and I argue that while the prominence of the Ñemboati Guasu enacts a significant form of Indigenous self-government that promotes political participation in impor-

tant ways, the *campesina*'s lack of control over the territory's subsurface rights limits the Charagua's ability to shape development, constraining Indigenous autonomy.

At the national level, although the executive and legislative branches—"organs" as they are called in Bolivia—expanded Indigenous rights from 2006 to 2009, those same bodies subsequently undermined those gains. Bolivia's judicial organ, meanwhile, is subordinate to the executive; it is also inefficient, expensive, and largely inaccessible to ordinary Bolivians.<sup>10</sup> The organ of government from which Indigenous groups have arguably found their most significant support since 2009 has been Bolivia's fourth branch of government, the relatively transparent and independent electoral organ (Tockman 2017). As Miguel Centellas (2017) argues, the Plurinational Electoral Organ has "remained largely impartial, maintained its political independence, and significantly improved its capabilities—increasing Bolivians' trust in the legitimacy of elections."<sup>11</sup> The electoral organ has also accompanied and certified the formation of the deliberative assemblies that have advanced Indigenous autonomy processes, although its supervision has been marked by delays and bureaucratic hurdles (Exeni 2015: 222, 228). Finally, it is worth noting that the aforementioned Plurinational Constitutional Court, Bolivia's highest arbiter of constitutional questions which functions independently of the country's judiciary, has provided some rulings favorable to Indigenous peoples.

### *Ecuador*

Similar dynamics are observed in Ecuador, a country in which seven percent of the population self-identify as culturally Indigenous (INEC 2010). Following a series of governments that implemented free market reforms during the 1990s and early 2000s, a turn to the left brought to the Presidency economics professor Rafael Correa, who employed a discourse of "Citizens' Revolution" and "rode antisystemic protests to power" in 2007 (Becker 2013: 50). A key element of Correa's presidential campaign was to convene a Constituent Assembly to draft a new constitution—Ecuador's twentieth. The constitution, approved by 64 percent of the electorate in September 2008, expands social and economic rights and includes traditionally marginalized groups into the political order, including Indigenous peoples. As in Bolivia, Ecuador's constitution characterizes the country as plurinational, recognizes and guarantees individual and collective rights of Indigenous peoples, including free, prior, and informed consultation when projects would affect them, and authorizes the creation of autonomous Indigenous territorial districts (Articles 6, 57, 257). According to Article 95, Ecuador's democracy is to be exercised through representative, direct and communitarian mechanisms.

However, the Ecuadorian constitution's robust provisions for Indigenous rights and participation have rarely translated into real gains for Indigenous peoples. Under President Correa (2007–2017), Indigenous peoples of Ecuador were afforded limited opportunities for political participation, and the country's leading Indigenous organizations turned to active resistance of laws and regulations pertaining to mining, oil, and water resources that have threatened their lands and livelihoods. Indeed, just three months after the constitution entered into force, Correa succeeded in passing a mining law through Ecuador's provisional legislative commission—the *Congresillo*, which aimed to grant large-scale open-pit mining concessions on millions of hectares. The law opened significant parts of the country, including in the Amazonian lowlands, to mining concessions, adding mineral extraction to the mix of extractive industries—until then, largely oil—that threaten Indigenous territories. Indigenous, environmental and local community opposition quickly emerged, most significantly in the January 20, 2009, Day of Mobilization for Life. While the president branded those who protested the mining expansion as “fundamentalists” and an “infantile left” driven by environmental and Indigenous ideologies (see Becker 2013; de la Torre 2013), the armed forces fired teargas and bullets at them, leaving numerous people injured. By 2012 relations between Correa and Indigenous peoples had so deteriorated that Humberto Cholango, president of the Confederation of Indigenous Nationalities of Ecuador, denounced the government for criminalizing social protest, including prosecuting Indigenous leaders as terrorists and saboteurs, and condemned it for allowing transnational mining and petroleum companies to exploit Indigenous territories without the consultation guaranteed by the constitution (CONAIE 2012).

Since approval of the mining law and subsequent “deregulatory modifications” of the law to promote foreign investment,<sup>12</sup> Ecuador has opened 13 percent of the country to mining exploration and granted concessions for 160 large-scale mines, many of which are located on Indigenous territory (Jamasmie 2017; Roy et al. 2018: 5). The first such project, a copper mine by a subsidiary of the Chinese consortium CRCC-Tongguan in the Cónдор Mountain Range, has been built on the ancestral territory of Shuar peoples (COICA 2018). With support from the national police, the mining company's security forces violently evicted dozens of families and destroyed a church and a school in the community of San Marcos—without having obtained free, prior and informed consent; and many believe that the assassination of Shuar leader José Tendetza was due to his public opposition to the project (COICA 2018).

Meanwhile, Indigenous resistance to the oil sector has continued. In the eastern Amazon, Waorani communities in the Yasuní Biosphere Reserve renewed their long-standing battle against oil development, the most recent

of which was a series of concessions approved by the government of Correa, which continue to be supported by his vice president and successor, Lenín Moreno. The state oil company Petroamazonas began to drill in Yasuní in 2018 (Tapia 2018); however, in April and July 2019, courts of the Pastaza province issued twin rulings that Ecuador had not properly consulted with the Waorani and cancelled plans for new oil concessions, protecting a half million acres of Waorani territory (Amazon Frontlines 2019; Riederer 2019).<sup>13</sup> Commenting on the legal victory, plaintiff Nemonte Nenquimo, president of the Waorani Pastaza Organization, opined, “Today, the courts recognized that the Waorani people, and all Indigenous peoples have rights over our territories that must be respected” (Amazon Frontlines 2019). Indeed, the decisions highlight that, although executive and legislative branches of government are willing to set aside constitutional protections and international standards for Indigenous rights when they conflict with the government’s economic goals, the judiciary can sometimes serve as a backstop to halt the transgression of those rights.

President Lenín Moreno’s discourse on Indigenous rights has deviated from the general hostility of his predecessor. Moreno has renewed dialogue with Indigenous groups, including CONIAE, and has made several pro-Indigenous gestures, such as pardoning imprisoned Indigenous activists (CONAIE 2017; Cordero Ponce 2019). In December 2017, he committed to a suspension of new mining concessions for which prior consultation with affected Indigenous communities had not been undertaken (*El Universo* 2017b). However, government efforts to expand mining and oil projects have continued, sparking numerous mobilizations including a 2018 march by 1,500 Indigenous people protesting mining in Indigenous territory, which traversed 600 kilometers from the southern Amazon to Quito (Brown 2018). The continued distance between discourse and action on Indigenous rights was noted by Victoria Tauli-Corpuz, UN special rapporteur on the rights of Indigenous peoples, when she visited Ecuador on a fact-finding mission in 2018; ending her trip, Tauli-Corpuz expressed that “so-called development projects have violated and continue to violate [Indigenous peoples’] fundamental rights,” which entail “serious violations of the constitutional provisions” related to Indigenous peoples (*Straits Times* 2018).

## *Peru*

As Carmen Ilizarbe poignantly argues in Chapter 2, Peruvian democracy since 2000 has failed to achieve institutionalization due to the corporate capture of the state across five presidencies, which has meant that democracy itself has been captured. This corruption of the democratic system notwithstanding, Peru has sustained nearly two decades of competitive electoral alteration of power between presidents of various—generally

upstart—political parties. Basic rights and freedoms, meanwhile, while experienced unequally among Peruvians, are arguably sufficient to limp across the threshold of electoral democracy. Meanwhile, the pronounced discursive and legal changes that have marked a new democratic period in Ecuador and Bolivia since the turn of the millennium have eluded Peru. This is not to say that there have been no democratic innovations in Peru; indeed, the country has since 2002 enacted a top-down form of participatory budgeting, making it mandatory in every municipality in the country since 2004, as well as a range of other types of participatory forums (Jaramillo and Wright 2015; Chapter 6 in this volume).<sup>14</sup> Despite robust civil society participation in Peru's participatory budgeting processes, however, numerous limitations have been documented, including that it is based on an elite "corporate model" in which people represent civil society organizations—unlike the Port Alegre model where individuals participate as citizens; and that many of the projects that are approved are never executed (McNulty 2012; see Wampler 2007 on participatory budgeting in Brazil).

Unlike the other Andean countries, Peru has not made significant legal or constitutional advances aimed at expanding Indigenous rights, participation, or authorized systems of self-government. Whereas the governments of Bolivia and Ecuador have generally failed to deliver on the Indigenous rights recognized by their respective constitutions and laws, Peruvian leaders have, for the most part, not even endeavored to reform the systemic marginalization of Indigenous peoples.<sup>15</sup> Instead they remain blatantly relegated to second-class status, experiencing Peru's democratic deficit through quotidian social and political exclusion. This is sometimes openly expressed by state officials, as when former president Alan García (2006–2011) distinguished between "natives" and Peruvians: "Enough is enough. These peoples are not monarchy, they are not first-class citizens. Who are 400,000 natives to tell 28 million Peruvians that you have no right to come here? This is a grave error, and whoever thinks this way wants to lead us to irrationality and a retrograde primitivism" (Bebbington 2012: 9). And it is sometimes expressed violently, as seen in the 2009 Bagua Massacre when police opened fire on Awajún and Wampis peoples blockading a stretch of highway known as "Devil's Curve" in the Amazonian province of Bagua, as they protested decrees issued by President García that opened large swaths of the Peruvian Amazon to natural resource exploitation. As a consequence of the state's use of indiscriminate force in response to civil unrest, thirty-three people—Indigenous, peasant, and police—were killed, while hundreds more were wounded over the course of two days (AIDSESEP 2019).

In the northern Amazon near the border of Ecuador, one Indigenous nation has responded to the paucity of state support for Indigenous self-government or political participation by autonomously asserting their own self-governance by way of an autonomy statute. In November 2015, follow-

ing dozens of assemblies, representatives of twenty-seven Wampis communities came together to form Peru's first Indigenous territorial government—the 15,500-member Wampis Nation (ATGWN 2017; Pimenta 2019). The nation, whose territory spans 1.3 million hectares, does not seek independence from the Peruvian state, but an autonomous system of government within it. Wrays Pérez, president of the Wampis government, explained: “Even though Peruvian legal system does not recognize these rights, as is the case in Ecuador and Bolivia, considering that our rights are recognized by legal instruments at an international level, we are exercising these rights, including the right to autonomy” (ATGWN 2017). While relations between the Peruvian state and the Wampis have remained “relatively quiet” since 2015 (Pimenta 2019), the Peruvian government did grant an oil company permission to explore for oil on Wampis territory—until the Fourth Constitutional Court in Lima ruled that the permit required approval from the Wampis government (Balzani Lööv and de Silva 2017).

The Fourth Constitutional Court's ruling follows a pattern observed in Bolivia: an autonomous Constitutional Court—separate from the country's judiciary—that can sometimes be an effective recourse for Indigenous groups seeking to govern their own affairs. And, as in Ecuador, Indigenous peoples are securing favorable rulings in judicial decisions. Invoking Peru's Prior Consultation Law (no. 29785), signed by President Ollanta Humala in 2011, Indigenous peoples in Peru have secured a string of legal victories, winning each of the six lawsuits brought under the law since it came into effect—mostly against resource extraction projects—that have been settled to date (*La República* 2019; Cervantes 2019). These court decisions have supported Indigenous litigants, bolstering some of their rights within the Peruvian legal system (the right to be consulted, and thereby to participate in decisionmaking for projects or decisions that would affect them). However, the continued refusal of the executive to recognize or support processes of Indigenous self-government means that any such systems exist outside of officially sanctioned political spaces. In other words, considering that the recent advance of communitarian democracy in Peru is occurring despite the best efforts of successive Peruvian governments—not because of them—it is difficult to characterize these advances as a part of the country's democratic regime.

## **Toward Indigenous Inclusion**

This brief survey of Peru, Ecuador and Bolivia illustrates the challenges that Indigenous communities face in asserting their rights, both in countries that discursively embrace those rights (Bolivia, and to a lesser extent Ecuador), and those that exhibit a more significant rejection of them (Peru).

Similar obstacles can be observed throughout the region, and in countries of colonial origins around the world. While the refusal by nation-states' to create political space for Indigenous democratic participation and self-governance is perhaps irreconcilably baked-in to the very foundations of countries built on top of preexisting Nations, the establishment of new minimum global standards for the rights of Indigenous peoples has given them and their supporters hope that the recognition of rights can transform practices of governance. Toward such a transformative goal, what changes to the democratic systems of the Andean region would better facilitate Indigenous self-government and participation in public affairs—in a manner consistent with the UN declaration?

The democratic inclusion of Indigenous peoples can be approached in two ways: by creating participatory spaces within nation-states' democratic systems, and by allowing Indigenous peoples to practice their own communitarian democratic systems. These two approaches require distinct actions by countries. On the one hand, countries need actively cooperate with Indigenous peoples, inviting them into the public domain in meaningful ways. Such inclusion cannot be designed by the state alone; discussions over the form participation takes must be a conversation between nations—the nation-state and the Indigenous nations that have been subsumed by it. In that dialogue, Indigenous peoples may seek democratic inclusion through the establishment of designated Indigenous seats, as has been done in Bolivia and Venezuela. They could propose systems of co-management of natural resources, where Indigenous communities have a shared capacity to plan and profit from projects that would impact their ancestral territories. And they will likely expect to not only be consulted over administrative and legislative measures that would affect them, but afforded the right to consent, as elaborated by the UN declaration.

On the other hand, democracy can be compatible with Indigenous rights if states allow for the practices of communitarian democracy, based upon Indigenous institutions and practices of self-government.<sup>16</sup> While some might object to such systems being characterized as democratic—arguing that not everyone can vote and not everyone can run for elected office—such a stance is not only grounded in a privileging of Western political culture, but also forgetful of the long history of Western democracy's exclusion of many groups—from women to varying ethnic groups to people who are incarcerated. Instead, we might pose: what must "rule of the people" mean if it is to include Indigenous peoples? In representative democracies, free and fair elections and the attendant rights and freedoms required to ensure them are centered on liberalism's primary actor: the individual. But Indigenous peoples (as groups), in contrast with Indigenous people (individuals), are collective political subjects whose participation and representation cannot be achieved by liberal strategies that serially

aggregate the preferences of autonomous individuals. Though the political norms and procedures of Indigenous peoples are marked by great variation, they generally involve collective decisionmaking, not voting by secret ballot. In the Andes and beyond, systems of communitarian democracy often involve decision-making and authority selection through assemblies where participation in neither secret nor universal. For example, a common authority-selection practice in Andean Indigenous communities is for supporters to form a line behind their preferred candidate for office—each of whom has fulfilled a number of positions within the community; the candidate with the longest line wins. Decisions are frequently made by consensus. At assemblies, it is common for a married person, usually but not always a man, to represent the family in what is understood as gender complementarity. If democracy is to include people who are Indigenous, and if it does not require them to abandon their political and cultural practices to act as political subjects, then democratic systems need to recognize and create space for these types of group processes.

If, as discussed above, countries can better marry democracy and Indigenous rights by engaging with Indigenous peoples and enhancing their political participation in the state's public processes, they can best support Indigenous systems of self-government by getting out of the way. In fact, it will likely be necessary for the state to withdraw from local political spaces—or at least suspend existing institutional constraints—to make Indigenous self-government possible. In some regions, this will mean legally recognizing practices already in place, such as processes of authority selection, norms of decisionmaking, or Indigenous systems of justice. In others, it will involve the conversion of rural or semiurban municipalities to Indigenous governments, although as we have seen in the case of Bolivia, there are risks of the state impeding processes by way of lengthy procedures and burdensome regulations, or of establishing self-government frameworks that merely adorn municipalities with Indigenous names and symbols. Perhaps counterintuitively, in tandem with vacating certain local spaces, the state will need to actively support Indigenous communities in their reestablishment of political systems that were long repressed. While this state support is fraught with perils of paternalism, co-optation, and the policy reversals that may accompany a change in government, the legacies of colonialism often mean that Indigenous peoples are short on the financial resources and technical expertise needed to reestablish robust systems of self-government.

Finally, the important roles of branches of government other than the executive and legislative are relevant to understanding the relationship between democratic systems and Indigenous rights. In all three Andean countries, Indigenous communities have taken their grievances over projects that would affect their territories to courts, and in many cases they have secured rulings in their favor. These have come from both constitutional and

judicial bodies, where those courts have been able to exert independence from the other branches of government. Bolivia's electoral organ has also supported processes through which Indigenous self-government is being established. Thus, we observe that many of the most significant gains in Indigenous rights in the Andes have been bolstered not by the element of democracy sometimes held to be its defining feature—polyarchy's free and fair election of public officials—but when the other branches of government keep presidential and legislative power in check. Although this republican impulse is not yet robust in the Andes, horizontal accountability seems to be an important ingredient in the exercise of Indigenous rights, and the constitution of universalistic citizenship can make democracy more meaningful and relevant to Indigenous peoples.

## Notes

1. The TIPNIS is home to Yuracaré, Tsimane (Chimán), and Mojeño Trinitario Indigenous peoples.

2. For example, Indigenous delegations from Argentina, Bolivia, Chile, Ecuador, Paraguay, Peru, Surinam, and Venezuela participated in the 1977 Conference on Discrimination against Indigenous Populations in the Americas, held in Geneva under United Nations auspices (*Report on the International NGO Conference on Discrimination Against Indigenous Populations in the Americas*, 1977), which Anaya describes as a pivotal moment in the construction of a “transnational indigenous identity” (1996: 46).

3. The four countries that voted against the declaration are the United States, Canada, New Zealand, and Australia; all subsequently reversed their positions and endorsed the Declaration in 2009 or 2010.

4. Delegative democracy describes a political system common to Latin America in which presidents win elections and are subsequently able to govern paternalistically as they see fit, unconstrained by other branches of government and limited only by the “hard facts of existing power relations and by a constitutionally limited term of office” (O'Donnell 1994: 59).

5. For classification of periods of electoral democracy and semidemocracy, see Smith 2005: 347–353.

6. Sofia Cordero Ponce (2019) describes how the lack of support from the central government has impeded efforts to construct Indigenous territorial autonomies by the Pijal Community, the Federación del Pueblo Cayambe, and the Circunscripción Territorial Indígena y Gobierno Autónomo de Tigua (CITIGAT).

7. Departments are the Bolivian subnational equivalent of Canadian provinces or US states.

8. To be sure, with few exceptions, Andean countries—like most of Latin America—have not fundamentally accepted many of the liberal and republican underpinnings of representative democracy (e.g., civil liberties, limited government, separation of powers, the rule of law).

9. The logic of this restriction appears to be that where Indigenous peoples constitute the majority of the population, Indigenous candidates should be reasonably competitive in ordinary electoral districts (Garcés 2011).

10. Eduardo Rodríguez Veltzé, former Bolivian president and chief justice of the Supreme Court, describes efforts to reform the judiciary since 1982 as limited; in contrast with the other organs of government, he argues: “Probably the least, and the last, attention was provided to the judiciary” (interview in *La Paz*, April 10, 2012).

11. Trust in the country’s electoral institutions was profoundly shaken by the 2019 national elections, when uncertainties over the counting of presidential ballots spurred widespread civil unrest against perceived fraud by President Morales, who fled the country once the military called for his resignation (a series of events that fits Cameron’s definition of a “civil society coup”; see Chapter 4). The clearer and less controversial results of the 2020 elections—which saw the MAS return to power under Luis Arce’s leadership—may help restore confidence in electoral processes.

12. These modifications included reductions to the rate of corporate and wind-fall taxes (Roy et al. 2018).

13. The Waorani’s legal victory has also rendered uncertain the government’s plans to auction off of an additional 7 million acres of Indigenous territory (Amazon Frontlines 2019).

14. Stephanie McNulty also highlights that participatory budgeting in Peru it is “often poorly organized and timed,” frequently has an urban bias, and exhibits a gender imbalance with women constituting between 22 and 32 percent of meeting participants (2012: 14).

15. Peru’s Prior Consultation Law is a notable exception.

16. My use of the term “communitarian democracy” refers to Indigenous political institutions and processes, and is not meant to connect with normative philosophical debates over communitarianism (see, e.g., MacIntyre 1981).



# 9

## The Covid-19 Pandemic and Democratic Erosion

*Verónica Hurtado and  
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ON MARCH 11, 2020, THE WORLD HEALTH ORGANIZATION (WHO) declared Covid-19 a pandemic and urged governments around the world to take containment measures. Some of the pandemic responses, however, required the limitation of fundamental rights, provided an opportunity for strongmen's power concentration, and tested governments' capacity for goods and service provision. Governments had to make decisions about policy implementation that ensured both health and safety for their citizens, as well as democratic governance. In the Andes, these policy tests were inflicted upon already unstable democracies. As seen in the previous chapters, Venezuela, Bolivia, and Peru were already experiencing significant political crises prior to the pandemic, crises that challenged their governments' electoral stability, undermined surrounding rights and freedoms, and weakened the rule of law. In contrast, overall democratic governance was stable before the pandemic in Ecuador and Colombia, despite ongoing challenges sustaining the rule of law and citizenship rights in the context of widespread popular protests. In this context, the pandemic emergency acted as a catalyst for ongoing processes of both democratic erosion and policy innovation.

In this chapter, we present an overview of the state of democracy in the five Andean countries using the four components of democratic systems discussed in Chapter 2: (1) electoral components, (2) surrounding rights and freedoms, (3) constitutionalism and the rule of law, and (4) citizenship. Our survey of the main policy responses to the pandemic from February 2020 to June 2021, indicates that all four components were challenged to

different degrees in the five cases, and these differences reflect the prior state of their democratic systems.

We conclude with a discussion of three consequences of the pandemic policy responses on citizens' support for democratic governance: (1) increasing support for authoritarian-style policymaking; (2) pervasive dissatisfaction with democracies' capacity to deliver goods; and (3) questions about the legitimacy of electoral processes. In short, our assessment is that processes of democratic erosion are underway in the five countries. In all cases, the pandemic has acted as an accelerator of previous processes of democratic instability, while also testing citizens' trust in democratic governance.

### **The Pandemic and Democracy in the Andes**

Latin America is one of the regions most affected by Covid-19, both in terms of human and economic costs. Peru reports the highest rate of mortality, with over 180,000 deaths reported on June 1, 2021, as a result of a detailed investigation on the underreporting of Covid-19 casualties (Grupo de Trabajo Técnico 2021). Figure 9.1 shows the Covid-19-related deaths as a percentage of the overall population in each of the five cases. While Peru is an outlier, Colombia, Ecuador, and Bolivia report a similar death toll of 0.2 percent of their population. In contrast, Venezuela's official numbers, which are unreliable, do not surpass the 3,000 deaths.<sup>1</sup>

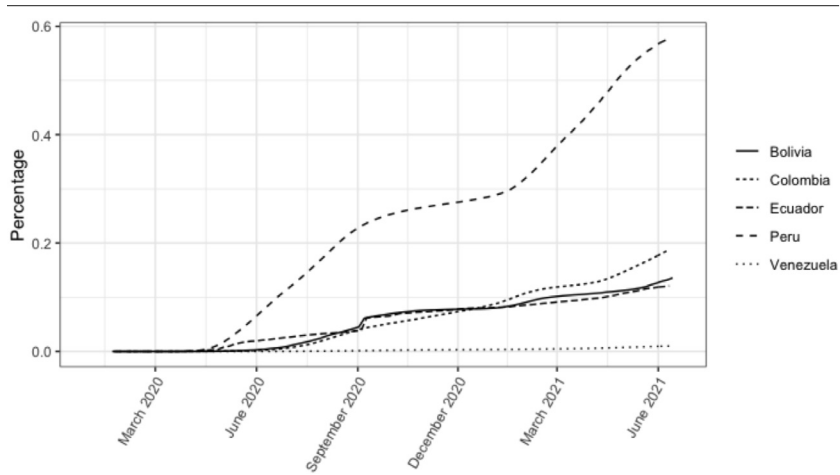
The economic performance of the five countries has followed a similar trend during the pandemic. Figure 9.2 shows the evolution of the Gross Domestic Product where Venezuela is highlighted as the country with the worst performing economy through the years, with a contraction of 30 percent in 2020. In the other four cases, Peru had the worst recorded gross domestic product (GDP) growth with a negative change of 11 percent. Bolivia follows with -8.8 percent, and Ecuador and Colombia registered -7.8 and -6.8 percent respectively.

While the long-term effects are still to be determined, the pandemic has made evident preexisting weaknesses in the region's political regimes. Drawing on the framework presented in Chapter 2, we analyze of the state on democracy in 2020 and 2021, reflecting on how each of the components of democratic regimes have been shaped by the pandemic.

#### *Electoral Components*

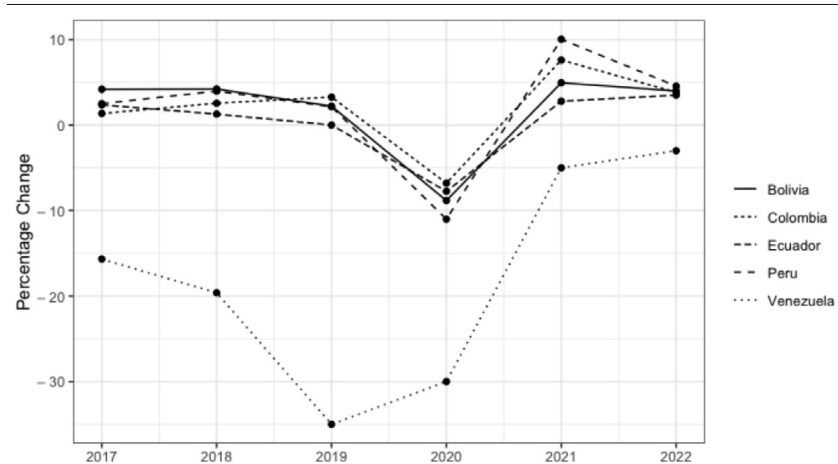
Of the five Andean nations, four had elections during the pandemic. Bolivia, Ecuador, and Peru held presidential elections and Venezuela held legislative elections. While we might have expected the pandemic to have prevented the normal unfolding of electoral processes, the elections

**Figure 9.1** Reported Covid-Related Deaths as Percentage of Population, March 2020–June 2021



*Source:* Oxford COVID-19 Government Response Tracker, Blavatnik School of Government, University of Oxford, July 2020 (author's elaboration).

**Figure 9.2** Evolution of Gross Domestic Product as Percentage of Change, 2017–2022



*Source:* World Economic Outlook (WEO) database, 2021 (author's elaboration).

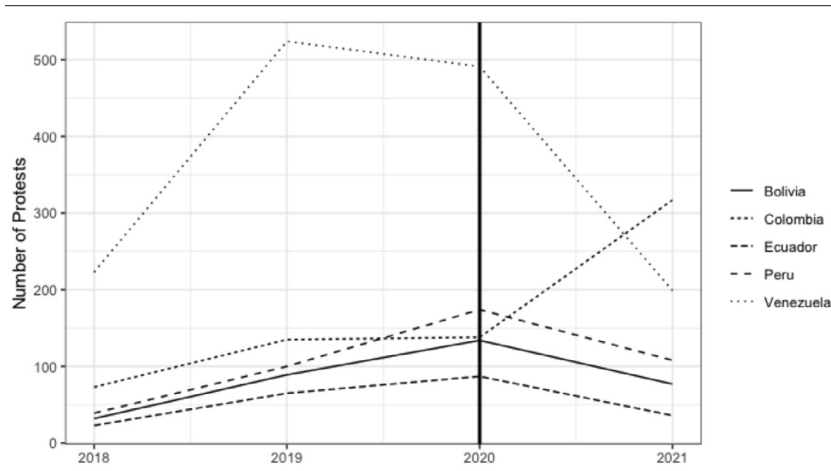
occurred with few incidents. In terms of turnout, Bolivia (88 percent) and Ecuador (81 percent) had historic high participation rates. In contrast, Peru had lower turnout compared to previous years, however the 70 percent of turnout aligns with preexisting trends of low levels of political participation in the country (elections in Peru are mandatory, which is why such a turnout is considered low). Venezuela, on the other hand, only registered 30 percent of turnout, the lowest since 2010.<sup>2</sup>

In terms of transparency and fairness of the electoral process, the European Union (EU) and the Organization of American States (OAS) refused to send observers to Venezuela's election and condemned the elections as lacking the minimum conditions necessary to be considered neither free and fair.<sup>3</sup> In contrast, these same institutions did not report any instances of fraud in Bolivia, Ecuador or Peru. In Bolivia, despite the two consecutive postponements of the presidential election due to the health emergency, Manuel Gonzalez, head of the observer mission for the OAS, recognized the victory of Luis Arce (from the Movement Toward Socialism [MAS]) and congratulated Bolivia's authorities on the integrity of the electoral process. The European Union also congratulated Guillermo Lasso as president of Ecuador after a second-round election. Finally, in Peru, both the OAS and the EU, as well as other international actors, recognized the elections as a model of elections in the region and recognized the transparency in which the government provided information to both organizations and citizens.

However, Peru shows the most striking change in the electoral components of its democracy. Even though elections were not delayed due to the pandemic, the election results were contested by the runner-up, Keiko Fujimori. Fujimori has made claims of fraud and started a legal process to exclude 200,000 votes from the poorest and most remote areas in the country. Renowned politicians joined her effort to call for a recount or even new elections, and the announcement of the election results was significantly delayed. Peruvian electoral bodies resolved the lawsuits as fast as possible in order to declare Pedro Castillo on time for the July 28, 2021, inauguration deadline. Finally, President Castillo took office on time, however right-wing grassroots organizations mobilized and the opposition in Congress threatened to remove the president from office.

### *Concomitant Conditions*

The pandemic restricted individual freedoms. In principle, this was justified by a common good—the need to prevent harm caused by the pandemic. Given widespread implementation of social distancing measures in the region, a health emergency could be expected to limit the capacity of individuals and groups of citizens to organize and mobilize in protest. Using the Armed Conflict Location and Event Data Project (ACLED), we identify that while all

**Figure 9.3** Episodes of Social Mobilization During the Pandemic, 2018–2021

Source: Armed Conflict Location & Event Data Project (ACLED). See: [www.acledata.com](http://www.acledata.com) (author's elaboration).

countries experienced episodes of mobilization during the pandemic, there was a consistent downtrend in four out of the five cases as Figure 9.3 shows.

From July to October 2020, Bolivian protestors challenged the delay of general elections and rebuke the government's poor response to the coronavirus pandemic. The protestors claimed the delays were part of the interim president's strategy to remain in office and persecute opponents. Elections were finally called for October (Trigo and Kurmanaev 2020). Similarly, Peruvians protested in November 2020 in response to a Congress-led power grab that led to the impeachment of former President Martin Vizcarra and the proclamation of Congressman Manuel Merino as interim president. These protests led to the resignation of President Merino and the formation of a transitional government led by President Francisco Sagasti.<sup>4</sup>

Venezuela also experienced mass protest in September 2020 in response to the country's economic crisis. More than a hundred protests have broken out in at least seventeen of the country's twenty-three states with grievances related to the constant shortages. Unlike previous waves of demonstrations led by the political opposition and focused on ousting President Nicolás Maduro, the current unrest has largely taken place outside Caracas and protesters have not expressly called for a change of government (Daniels and Rangel 2020).

Finally, demands have not been exclusively political. In Ecuador and Colombia, mass protests erupted in response to the economic measures

taken during the pandemic. In May 2020, Ecuadorians protested against the government's economic response to the coronavirus outbreak, defying restrictions aimed at combating the virus.<sup>5</sup> In April 2021, Colombians also mobilized in response to proposed tax reforms that overburden middle-income households. Despite the governments' decision to withdraw the proposal, Colombians have continued to protest due to the rising income inequality in their country and the lack of government response (Chang and García-Montoya 2021). Only Colombia registered a substantial increase in the number of protests recorded by the ACLED.

### *Constitutionalism and the Rule of Law*

We identified serious problems with the rule of law and the power of the legislative and armed forces in several cases. In Bolivia, for example, interim president Áñez abused the justice system to persecute associates and supporters of Morales, and issued decrees that would have shielded military personnel from accountability for abuses during crowd-control operations and that threatened freedom of expression. Human Rights Watch documented baseless charges, violations of free speech and due process, infringement on freedom of expression, and excessive and arbitrary use of pretrial detention.

The Áñez administration filed criminal complaints against at least four judges for granting house arrest to people linked to the Morales administration who had been awaiting trial in detention. Police initially detained one of the judges, but the judge was released the next day after another judge ruled the detention illegal. In August 2020, the Plurinational Assembly, where Morales's party had a majority, passed a law that prohibits former officials from traveling outside Bolivia for three months after leaving office. The law arbitrarily infringes on outgoing officials' right to freedom of movement. After winning the October 18, 2020, presidential election, Luis Arce established a commission of experts to draft proposals to reform the justice system (Roth 2021a).

In Colombia, the country's Supreme Court announced that it had ordered the pretrial house arrest of Senator Alvaro Uribe. Uribe, who was president from 2002 to 2010 and a mentor to current President Iván Duque, is no doubt the most powerful political figure in the country. The Investigation Chamber of the Supreme Court is examining whether he bribed former fighters to change their testimony about his alleged role in establishing paramilitary groups. In the protests that started on April 2021, Human Rights Watch has confirmed that thirty-four deaths occurred in the context of the protests, including those of two police officers, one criminal investigator, and thirty-one demonstrators or bystanders, at least twenty of whom appear to have been killed by the police. Armed people in civilian clothes have attacked protesters, killing at least five (Human Rights Watch 2021).

In Venezuela, Human Rights Watch found that “the government has used the Covid-19 state of emergency as a pretext to repress dissent, arbitrarily detaining and prosecuting dozens of political opponents, including legislators, journalists, healthcare workers who criticize the government’s handling of the pandemic, and lawyers who provide legal support to demonstrators protesting lack of access to water, gasoline, or medicines.” In July, the United Nations (UN) Office of the High Commissioner for Human Rights (OHCHR) reported sixteen cases of alleged torture and ill-treatment from June 2019 to May 2020, saying the actual number could be “significantly higher.” The cases include severe beatings with boards, suffocation with plastic bags and chemicals, waterboarding, electric shocks to eyelids and genitals, exposure to cold temperatures, and being handcuffed for extended periods of time. In some cases, doctors issued false or inaccurate medical certificates not disclosing signs of torture (Roth 2021d).

In Ecuador, the Constitutional Court declared unconstitutional the extension of state of exception requested in December 2020. The reasoning of the Constitutional Court was that Covid-19 ceased to be a public calamity in the technical-legal sense as it was no longer “unforeseeable” but had become part of the “new normality” and that the government should act using its ordinary powers. The court also recalled that “without resorting to a state of exception, it is possible to restrict capacity, commercial activities, vehicle circulation, among other measures aimed at regulating the use of public and private space.” In this case, judicial control of emergency powers has been more effective than legislative control (Cervantes 2021).

In addition, Ecuador like Peru faced political scandals related to corruption in the distribution of vaccines among the political elite.<sup>6</sup> In Ecuador, President Lenín Moreno admitted having distributed the vaccines to benefit their social and family network, even in the context of vaccine scarcity. In Peru, the Sinopharm clinical trial included a shipment of additional doses for lab workers and personnel involved in the study. However, this lot of vaccines was distributed to members of the government of Martín Vizcarra, his family and himself. In both cases, public officials who were vaccinated have either resigned or being asked to leave their post in response to public uproar. In Peru, Congress has banned Vizcarra from public office for ten years in response to the *Vacunagate* scandal.

### *Citizenship Capabilities*

During the pandemic, we identify that during the gender-based violence has increased as a result of the stay-at-home orders as well as the limited services available for women and LGBTQ+ community members who seek refuge from abuse. We observe this clearly in the cases of Venezuela and Colombia.

In this period, policy proposals around women and LGBTQ+ rights have been promoted with limited to no success in Bolivia, Ecuador, and Peru.

In Venezuela, the Attorney General's office reported 185 cases of femicide in 2020 and the United Nations Population Fund (UNFP) representative indicated that during the first semester of the year, there were more femicides than people dying from Covid-19. In this case, most courts and tribunals were closed, resulting in women facing even greater obstacles in securing access to justice. The Office of the United Nations High Commissioner for Human Rights has reported that it observed "a lack of due diligence in investigative proceedings related to cases of gender-based violence" in Venezuela (International Committee of Jurists 2020).

Colombia has also reported a spike in gender-based violence. From March to June 2020, Colombia registered over 107 femicides (Chaparro Moreno and Alfonso 2020). In September, the Women's Observatory reported that an average of nearly three women a day were killed in Colombia, with eighty-six femicides recorded in the month. It is the highest monthly total researchers have documented since they began tracking the killings in 2017 (Janetsky 2020). Finally, according to the LGBT rights organization Caribe Afirmativo, the global pandemic exacerbated homophobia, discrimination and exclusion, increasing risks for communities which already face high levels of aggression and discrimination.<sup>7</sup>

In terms of policies around women and LGBTQ+ rights, a court in La Paz, Bolivia, ordered the national civil registry to register a same-sex couple's relationship as a "free union," ruling that the Bolivian constitution and the country's international legal obligations require laws and administrative procedures to be interpreted in a manner consistent with equality and non-discrimination principles. However, the civil registry appealed the ruling to the Constitutional Court and a ruling is still pending.<sup>8</sup>

In Ecuador, the National Assembly approved a draft health code in August 2020. The health bill included language prohibiting conversion therapy, echoing a criminal code prohibition that bans any attempt to change a person's sexual orientation or gender identity. It would have also protected intersex children by prohibiting medical procedures that violate the personal integrity of those who have not reached puberty. However, President Lenín Moreno vetoed the bill (Roth 2021b).

In Peru, there was a brief gender-based quarantine among the response measures to the pandemic. This policy resulted in cases of discrimination against transgender people by the police and the military, despite orders given by the president and the minister of interior to respect gender identity. The government reversed the measure shortly over a week after passing it, noting that most shopping was happening only on women's days. During this period, the Ministry of Justice created a special procedure allowing same-sex partners of public health workers to access state benefits

in the event of Covid-19-related deaths. However, the Constitutional Tribunal of Peru also denied recognition to a same sex-marriage contracted abroad in November 2020 (Roth 2021c).

## **Democratic Erosion**

One of the most worrying side effects of the pandemic has been the challenge it has presented to democracy. As our review shows, the Andean countries have experienced problems with electoral processes, increased social mobilization, concentration of power by executive, interbranch conflict, and growing citizenship deficits. While the long-term effects of these changes are still uncertain, we argue that they can contribute to an acceleration of democratic erosion through the disruption of democratic system legitimacy. Specifically, we argue that the challenges of the pandemic on the four components are producing changes in citizens' view of democracy, along the following lines: (1) support for nondemocratic policymaking; (2) dissatisfaction with democratic governments' capacity to provide policy outcomes; and (3) questioning of the legitimacy of electoral processes.

The first effect of these changes to the four components during the pandemic refers to citizens' dissatisfaction with democratic policymaking and the demand for "iron fist" policies, especially against noncompliance. In this scenario, authoritarian or illiberal leaders are perceived as more efficient in tackling the health crisis, while democratic deliberative processes appear lengthy and inefficient. As in other types of crises, this situation may create the illusion of an "authoritarian advantage" to solve urgent issues (Frey et al. 2020; Kavanagh and Singh 2020; Amat et al. 2020; Muñoz-Pogossian 2021). The illusion of authoritarian efficiency motivated some citizens' demands for stringent measures of containment, such as lockdowns and military surveillance, at the expense of individual freedoms.

Democratic policymaking is also affected by citizens' demands for technocratic governance (Amat et al. 2020). The pandemic has favored the authority of experts and scientists compared to the one of elected officials. As in the case of authoritarian leadership, the public discourse about the need of "neutral" scientific knowledge has empowered less democratic decisionmaking processes that, sometimes, have even been counterproductive (Lavazza and Farina 2020). For example, the *Áñez* government used the "experts' advice" to successfully postpone elections in Bolivia for several months and the. In this case, scientific knowledge was used as an excuse to continue processes of democratic erosion that were already in place.

The second effect refers to policy outcomes and the capacity to deliver goods such as flattening the curve of contagion and reducing economic hardship during the pandemic. At first, pro-authoritarian governments such

as China and Brazil were praised for their handling of the pandemic and their economy, respectively. They were ensuring that either the virus was contained, or that the market continued to work. These responses appeared to showcase a strong leadership, one that prioritized speed and comprehension in the establishment of pandemic policy responses. In turn, democracies were faced with the challenge of implementing their policy decisions in a similar fashion with the added challenge of negotiation with opposition forces and nonstate actors, as well as the individual limitations of institutional strength and state capacity. For citizens of the Andean countries, slow responses with limited policy outcomes challenged their support for their system and this translated to moments of social mobilization such as the ones in Colombia.

There is variation in the types of responses of nondemocratic governments. While populist leaders tend to introduce less far-reaching policies to contain the pandemic, it is true that autocratic regimes have imposed more stringent and invasive measures (Bayerlein et al. 2021; Frey et al. 2020; Kavanagh and Singh 2020). However, these kinds of nondemocratic regimes have been both less successful in mobilizing the people to contain the pandemic and less capable of delivering results in terms of contagion and mortality rates when compared with democratic regimes (Bayerlein et al. 2021; Frey et al. 2020; Karabulut et al. 2021; Mazzucchelli al. 2020). Moreover, democratic countries are the ones who provided quicker and more efficient responses (Cronert 2020), especially given the lack of media censorship and the space for policy criticism (Karabulut et al. 2021).

The final consequence of the pandemic on citizen's evaluation of democratic governance concerns the increased questioning of electoral processes. Governments scheduled to conduct elections in 2020 faced the challenge of adapting electoral processes to limit their citizens' health risks (Espinosa 2021; Muñoz-Pogossian 2021), mobilizing resources and institutions to guarantee safe elections (Guerrero 2021). Despite the adaptation to the pandemic context, the Andean countries faced limits on the campaign process as well as lack of transparency in the process and results of the elections (Landman and de Gennaro 2020; Spinelli 2020).

Governments introduced restrictions on the right of assembly during the pandemic, impacting the capacity of politicians to campaign. These restrictions have not only created direct communication problems between politicians and citizens but have also increased the relevance of the media and social networks that, in general, create a scenario of unequal access to information (Espinosa 2021: 30). In the Peruvian elections, for example, presidential candidate Pedro Castillo was detained due to their use of campaign rallies despite the social distancing measures.

While the quality of elections does not seem to have been significantly altered due to the pandemic, the legitimacy of their outcomes has. In

Bolivia and Peru, protests erupted demanding more transparency in the implementation of the elections as well as the declaration of the results. The lower legitimacy of elections is more salient in cases of preexisting political problems such as polarization or institutional distrust (Ascarrunz 2021; Guzmán-Astete and Müller-Osorio 2021; Liendo and González 2021; Brenes 2021). However, it is important to note that the restrictions have particularly affected the exercise of political rights of populations that were already vulnerable before the pandemic, especially among groups such as women, Indigenous groups, and other minorities (Muñoz-Pogossian 2021). Together, these measures have created some spaces for the legitimacy of electoral processes to be questioned.

## **Conclusion**

The pandemic has challenged democracy in the Andean region, exacerbating previous processes of democratic erosion. Our chapter has shown that the policy responses to the pandemic, and dissatisfaction on the part of citizens, can open the door to strongmen seeking to increase their power. Moreover, we argue that these short-term dynamics may affect citizens' evaluation of the efficacy of democracy, increasing their support for authoritarian-style policymaking and questioning the legitimacy of electoral processes.

In countries like Colombia and Ecuador, the pandemic created problems for democracy and opportunities for erosion, yet those were not as critical compared to the cases of Venezuela, Bolivia and Peru where ongoing crises increased the magnitude of democratic erosion. In Venezuela, the government politicized the response to the pandemic in order to openly contain the activities of the opposition. In Bolivia, the pandemic allowed the interim government to consolidate dominance and extend its mandate. In Peru, the political crisis that started in 2016 worsened as the health crisis created the conditions for an increase of power in the presidency and opportunities for the opposition to question the legitimacy of elections.

Our chapter has focused on the direct effects of the pandemic during the first year, recognizing that the long-term effects are still unclear. However, signs point to the growing popular support for strong, authoritarian leadership among citizens. Governments' responses to the pandemic have been essentially evaluated by the stringency of their measures and the capacity to deliver the promised goals. In the Andean countries, strong measures were often praised by citizens, and leaders expressed a sympathy for the active role of the police and armed forces during the pandemic. The increased demand for order and control appears as a looming threat to democratic stability in the Andes.

## Notes

1. On the limitations of the Venezuelan healthcare system, see Burki 2020; Daniels 2020.

2. See International IDEA, “Voter Turnout Database,” <https://www.idea.int/data-tools/data/voter-turnout>.

3. Emmott 2020; Organization of American States, “The Lack of Minimum Democratic Conditions to Guarantee Free, Fair, and Transparent Elections in the Bolivarian Republic of Venezuela,” October 22, 2020, [https://www.oas.org/en/media\\_center/press\\_release.asp?sCodigo=S-018/20](https://www.oas.org/en/media_center/press_release.asp?sCodigo=S-018/20).

4. Weeks later, export agriculture workers called for a general strike to ask for the revision of the labor regime and the increase of protection measures in the context of the pandemic. These protests, however, were territorially focused on the regions where these activities take place.

5. *BBC News* 2020.

6. *France24* 2021.

7. Justice for Colombia 2021.

8. Human Rights Watch 2020.

# 10

## Strongmen and the Dispute over Democracy

*Maxwell A. Cameron*

**CIRCA 2010, FIVE STRONGMEN RULED THE ANDEAN REGION.<sup>1</sup>** FOR BETTER or worse, Hugo Chávez, Rafael Correa, Evo Morales, Álvaro Uribe, and Alan García were historic leaders. As radical firebrands who led far-reaching processes of constitutional change, Chávez, Correa, and Morales created the so-called Bolivarian Alliance as a bulwark against neoliberal globalization.<sup>2</sup> Uribe and García, by contrast, were powerful and experienced leaders who combined populist discourse with neoliberal policies and hardline responses to political dissent.<sup>3</sup> A decade later, their successors were rulers of another caliber. They were chosen successors, accidental presidents, or leaders who emerged from the shadows of their predecessors thanks to stealth, fortune, or shrewdness. None enjoyed the stature or political ambition of their predecessors.<sup>4</sup> The contrast among these leaders reflected not merely personal idiosyncrasies, but a shift from extraordinary and transformative politics to something more like ordinary politics, albeit punctuated by periodic crises and new patterns of polarization. As authors of this book, we felt the moment was propitious for an assessment of the legacies of the institutional changes that took place in the preceding years and their consequences for democracy.

This chapter highlights three lessons from the case studies in this volume. First, executive aggrandizement—often framed as “republican refounding,” and justified in terms of the exercise of constituent power and participatory democracy—tends to undermine the checks and balances that prevent abuses of power. Second, democracy has tended to be most at risk in such cases when incumbents have attempted to perpetuate themselves in power at the expense of the principle of alternation in office. Third, liberal and representative democracy, the largely unacknowledged point of reference for scholarly

debate since the democratic transitions in the 1980s, has been challenged by alternative models of rule. The future of democracy depends on reconciling the plural forms of life that underpin diverse models of democracy.

Discussion of these issues underscores what is at ultimately at stake in the dispute over democracy in the Andean region: the need for states capable of serving as vehicles for popular sovereignty while also restraining state power by legal and constitutional means. Since this issue is lost from view when we focus too narrowly on the electoral dimensions of democracy, we begin with a reprise of the discussion of the state and horizontal accountability in relation to democratic political regimes in the introduction of this book. This is contrasted with the literature on competitive authoritarianism. The chapter then examines executive aggrandizement and presidential reelection. It concludes with reflections on alternative visions of democracy.

### **State, Horizontal Accountability, and Political Regimes**

The claim that democracy is about more than elections, however cliché, captures an important insight: elections are features of all modern democratic regimes. But they are also component parts of whole ecologies of institutions and practices associated with the acquisition and exercise of power within political regimes. As noted in Chapter 2, by “regime” we mean “the ensemble of patterns, explicit or not, that determines the forms and channels of access to principal governmental positions, the characteristics of the actors who are admitted and excluded from such access, and the resources [and] strategies that they can use to gain access” (O’Donnell 1999: 141).<sup>5</sup>

By the state we mean the “set of social relations that establishes a certain order, and ultimately backs it with a centralized coercive guarantee” (O’Donnell 1999: 135). The legal system is “a constitutive dimension of the state” (O’Donnell 1999: 135). Since the state provides the coercive guarantee of existing social relations it is not intrinsically neutral or impartial; on the contrary, it upholds unequal power relations.<sup>6</sup> At the same time, the construction of a social order is itself a “supreme collective good” upon which many other goods depend (O’Donnell 1999: 136). The state monopolizes coercive power but also supplies public goods and solves collective action problems (O’Donnell 2007). Can the political regime check the tendency of state power to become oppressive without disabling its ability to function democratically? This is a central problem of political theory, and the most persuasive answers we have come from the democratic, liberal, and republican canons. There will always be the necessity to balance the enabling and the restraining of state power, and, while none of the great traditions of

political thought provide definitive solutions to this tension, bringing them into conversation can be illuminating.

In the modern European context, liberalism contributed to democracy by offering protection of private individual rights and liberties, including property and minority rights, which were necessary to secure the consent of privileged minorities who felt threatened by demands for popular sovereignty. Republicanism, rooted in Greek and Roman history and legal traditions, contributed the idea of representative government: the idea that sovereignty rested not on the lawless rule of the many or the few, but the lawful rule of the few who represent the many. Initially an alternative to democracy, representative government was democratized by the gradual extension of the franchise. Enter the democratic contribution: institutionalized competitive elections were to be the exclusive route to public office in the legislature and executive branches of government. In theory, each of these three traditions enriched and reinforced the other in a coherent and durable whole.

Similar processes at work in Latin America—the democratic expansion of political rights and mechanisms of representation—occurred in specific structural and historical contexts including vast inequalities, persistent colonial legacies, and powerful global forces, both material and ideological, that have conditioned the region's development. The adaptation of democratic, liberal, and republican thought in this context encountered novel challenges. Latin American elites had—and continue to have—reasons to fear the tyranny of the majority, but the majority also had reason to fear the tyranny of powerful and often corrupt minorities.<sup>7</sup> Anti-elitism fuels illiberal populism, and this may present challenges to democracy but it also helps understand why local elites tend to embrace a particularly conservative brand of liberalism, one that upholds constituted power as sacrosanct and disparages popular sovereignty. This is illustrated, for example, by the neoliberal politics of liberals like Mario Vargas Llosa and Hernando de Soto.

Neoliberalism departs from critical features of the classical liberal tradition: the necessity of lawful state institutions capable of regulating markets, avoiding the concentration of economic wealth, ensuring robust representation and citizenship, guaranteeing the rule of law, and upholding the separation of powers (Linz and Stepan 1996; O'Donnell 2010). It can be juxtaposed against a progressive liberalism that embraces social justice and inclusive citizenship. In Andean politics, Peru's Valentín Paniagua (interim president, 2000–2001) and Bolivia's Eduardo Rodríguez Veltzé (interim president, 2005–2006) exemplify this relative weak current of thought.<sup>8</sup> Progressive liberalism tends neither to serve the interests of powerful elites, nor does it thrive in the absence of lawful states. Latin American elites—particularly technocrats—have been far more enthusiastic in their adoption of neoliberalism, which quite deliberately undermines the possibility of

using the state to strengthen citizenship rights and social justice (Brown 2015). Unencumbered by the demands of politically organized citizens, however, and lacking the capacity to regulate markets, neoliberalism enables systemic corruption and fosters oligarchic modes of rule (Foweraker 2018; Cameron 2021b; Vergara 2021).

The fraught history of liberalism in the region means that the assumption—often made by scholars whose frame of reference is the experience of established democracies of Western Europe and North America—that democracy must be *liberal* can result in unwarranted pessimism and analytical misdirection. All democracies contain illiberal impulses, or there would have been no need to invent liberalism. The spread of illiberalism, whether in the form of populism or the personalist or caesarist style of rule by elected leaders, should be a source of grave concern, but these tendencies reflect an often legitimate disillusionment with the effects of neoliberal globalization in a region already structurally and violently unequal. The belief that the end of the Cold War heralded the global triumph of free markets and liberal democracy, and that together markets and democracy could create sustainable and shared prosperity and political stability (Fukuyama 1992), was mere hubris. The adoption of neoliberalism in Latin America—in contexts of weak and easily captured patrimonial states, unequal societies, and low intensity citizenship—neither strengthened liberal democracy nor created dynamic, sustained, and equitable private sector growth. The rejection of neoliberalism after it failed to fulfill its promises of prosperity contributed to the search for radical alternatives. This opened the door to executive aggrandizement first by radical populists and then right-wing reactionaries, both of which repudiate the liberal features of democracy.

### **Liberalism, Populism, and Competitive Authoritarianism**

As stated in the introduction, concepts are neither right nor wrong. The usefulness of our concepts depends on our purposes—that is, the effects we intend to produce. When Guillermo O'Donnell (1996) argued, with respect to democratic consolidation, that it was unhelpful to think of Latin American democratic regimes as lacking features of Western European or North American democracies (or idealizations of those democracies), his point was to shift our attention to what made new democracies endure despite the absence of some of the characteristics of established democracies.

This productive shift in framing led to an insightful literature on informal institutions.<sup>9</sup> O'Donnell insisted that new democracies are not necessarily evolving toward a common end point, much less one that we might imagine to roughly resemble the current state of established democracies. It is not whether a particular ensemble of institutions and practices associated

with older democracies is present in newer ones that makes the latter democratic, but whether they function democratically in the context in which they operate. A checklist approach to democratization that reifies particular institutions and practices is to be avoided.<sup>10</sup>

The scholarly focus has recently shifted again, from problems of consolidation to fears of a “democratic recession.”<sup>11</sup> In this new framing, the rise of authoritarian populism has challenged the post-Cold War global consensus on liberal democracy (Castañeda 2006; Levitsky and Way 2010; Diamond 2015; Diamond and Plattner 2015; Luce 2017). This illuminates the role of illiberal actors while occluding the contribution of neoliberalism and inequality to their rise. Yet extreme inequalities affect the functioning of democratic regimes, often in ways that are unexpected from the perspective of democratic theories based on the experience of established democracies.

The contributors to this volume show that there are many varieties of democracy, even in the Andes. We do not assume that a regime that lacks a single attribute of liberal democracy cannot be classified as a type of democracy.<sup>12</sup> Instead, we cast our net more broadly. We prefer to include more cases in the set of democratic regimes, and limit the number of authoritarian cases to those that meet the definition outlined in Chapter 2.<sup>13</sup> Whether this definition is true or false is the wrong question to ask: the rules of classification are established by scholarly convention. A more appropriate question is: what are the trade-offs involved in more or less demanding definitions of concepts?

The problem with defining democracy as a *liberal* regime is that using such a demanding definition makes it difficult to reach scholarly agreement on when a regime has passed the crucial cutoff point beyond which it can no longer be considered democratic. The confusion over the classification of cases of “competitive authoritarianism” illustrates the point well. Consider Bolivia under Morales.<sup>14</sup> Scholars who claim that democracy broke down under Morales, mainly because of violations of liberal rights and freedoms, do not agree on when this occurred.<sup>15</sup> Nor do they agree on whether the removal of Morales was a coup.<sup>16</sup> It is also notable that the interim government of Jeanine Áñez was highly repressive, even though her government deserves credit for staging democratic elections in 2020.<sup>17</sup>

The combination of popular governments that behave illiberally and unpopular oppositions that seek to restore liberal democracy is a political reflection of profound social and economic inequalities. It is inequality that makes liberal democracies oscillate between populist mobilization and oligarchic modes of rule. As long as the liberal features of democracy remains precarious, we need concepts and theories that help us understand the distinctive political challenges of democracy in unequal societies.

So, what are we to make of the claim that populism leads to competitive authoritarianism? The use of the concept of populism to highlight rather than

elide the effects of markets, inequality, and patterns of exclusion that result in the construction of “the people” or *lo popular*, as a shared collective identity and mediation between state and society, is certainly welcome.<sup>18</sup> Political establishments are most vulnerable to attacks by populism where there are grievances arising from policies that disproportionately benefit elites and impose costs on those excluded from access to political power. The best corrective to populism is inclusive citizenship, which reinforces the need for progressive variants of liberalism rather than the dogmatic defense of constituted power which is sometimes the response to populism.

The case studies in this volume demonstrate that the effects of populism are not uniform. Undoubtedly, populism is generally illiberal and inimical to the stability of representative democracy, but this focus can myopically narrow our attention to one piece of a larger puzzle: why is populism the default mode of politics in regions like the Andes? How can it be tamed, attenuated, or transformed? Michael McCarthy’s chapter on Venezuela suggests that populism alone did not give rise to authoritarian rule. The breakdown of democracy and the construction of authoritarian rule are not the same. Authoritarian rule demanded the construction of what he aptly calls an “authoritarian governing project,” involving a host of alternative institutions for distributing power. Democracy is easily derailed by populists, but building authoritarian institutions is extremely difficult and costly, especially in the current international context. Despite the widespread and diverse expressions of populism in the Andes, the outcome has been the construction of authoritarian rule in only one case—Venezuela.

In Ecuador, the *muerte lenta* of democracy that so many feared would be the result of Correa’s plebiscitary rule was arrested by timely resuscitation. Jaramillo (this volume) suggests “The scholarly consensus was perhaps best articulated by Francisco Sánchez and Simón Pachano (2020: 8): ‘Several constitutive aspects of democracy had weakened just stopping short of transitioning into authoritarianism,’ they concluded.”<sup>19</sup> Correa neither mobilized popular participation into what McCarthy (Chapter 3) calls an “authoritarian governing project,” nor did he penetrate and control the armed forces. If he sought to construct an authoritarian regime he was unsuccessful in doing so before the alternation in office derailed his political project. This offers an important lesson for the defense of democracy, and highlights a major difference between Ecuador and Venezuela where the opposition was never able to beat Chávez on the terrain of electoral contestation: alternation in office between government and opposition is the key to sustaining electoral democracy.

Likewise, Bolivia illustrates both the risks of executive aggrandizement in an inclusionary regime and the countervailing forces that can prevent the breakdown of democracy. According to Santiago Anria and Jennifer Cyr (this volume), the removal of Morales in 2019 interrupted the

constitutional order, which was later restored by elections in October 2020 in which the outcome was even more favorable to the Movement Toward Socialism (MAS). A third term for Morales might well have created the possibility of further erosion of the liberal and republican features of democracy (about which, more anon). Equally importantly, the political project of the MAS did not involve the construction of repressive authoritarian institutions to sustain the government in the absence of electoral legitimacy. Indeed, most of the institutional innovations under the MAS were aimed at the empowerment of social movements and of Indigenous communities, and it was precisely their activation after the 2019 civil society coup that preserved democratic continuity. There are many good reasons to criticize the Morales government, but Bolivians have done a remarkable job of sustaining democracy under adverse conditions.

There is no denying that the populist vision of politics, with its antagonistic dichotomization of “the people,” *lo popular*, and the political establishment, has the potential to weaken the civic culture that sustains democracy, but the challenges to democracy cannot be reduced to populism alone; the construction of an authoritarian system of rule depends on more than the election of populist leaders. What populists can and often do, however, is attack the constitutional order, undermine concomitant conditions for institutionalized elections, and ultimately politicize and corrupt the electoral components of democracy. The challenge to build a broader, more pluralistic conception of democracy is to resist these polarizing and backsliding tendencies and to imagine alternatives.

### **Executive Aggrandizement and Presidential Reelection**

To understand the functioning of a regime, we need more than a checklist of indicators; we need to grasp of the meaning of the practices through which institutions are constructed, used, challenged, or circumvented. Many of the arguments we make about the functioning of regimes depend on our framing or interpretation of the meaning of actions from the perspectives of the actors themselves. Thus, for example, it is no small matter that Alberto Fujimori authorized a massacre *before* his self-coup on April 5, 1992.<sup>20</sup> He knew he would face a criminal investigation as soon as he left office; consequently, from that point onward the only place he was safe was in power. The deeper he became involved in crimes committed by the state the less safe he was anywhere but in public office. The motivation to remain in power is critical to understanding Fujimori’s behavior during the remainder of his term—his need for re-election, his desperate clinging to power by illegal means, and his relentless pursuit of impunity. In other words, Fujimori’s caesarist tendencies were driven by fear, ambition, and

the need for impunity. Observers who lamented that Fujimori ran for a third term in office because, they believed, he could have stepped down and retired as a hero, fundamentally misunderstood the political dynamic that propelled Fujimori forward into ever greater abuses of power.<sup>21</sup>

Democracy is most at risk when those in public office cannot surrender their position because they fear that they will be held accountable once they return to private life. That is why it is so important to preserve mechanisms of accountability when leaders with caesarist tendencies are in office. McCarthy's chapter on Venezuela in this volume provides an eloquent example of executive encroachment motivated by the fear of losing office. After Chávez died, Maduro opted against democratization because he knew the extent of corruption in the Venezuelan regime, and he could reasonably anticipate that he would have difficulty sustaining himself in office by electoral means. As the economy tanked, and protests mounted, he knew his safest play was to ensconce himself within corporatist and authoritarian institutions, closing ranks with other ruling elements, especially the military, who wished to retain their privileges under the status quo. It was safer, in Maduro's view, to double down on a predatory and corrupt style of rule, and to continue the process of executive encroachment on all other branches of power, despite the cost even to the Bolivarian constitution, rather than pursue a gradual political opening that would put his life and liberty at risk as well as those of his fellow-*chavistas*. Democracy is most in peril when elections are existential threats to those in power.<sup>22</sup>

Consider how this narrative contrasts with the story of Evo Morales, as related by Anria and Cyr. Whereas Maduro needed the support of corrupt and violent elements within an already authoritarian regime because he lacked Chávez's electoral base, charisma, and political instincts, Morales was in a different situation. He was every bit as astute and popular as Chávez, and his accountability to his social movement base was stronger. He could have cultivated a successor to replace him at the helm of the MAS and prepared himself to leave office. Unlike Fujimori or Maduro, it was not at all evident that Morales could not leave office and return to private life, but nor was it a sure thing that by so doing he would avoid the indignity of prosecution or exile. He would surely have been safe under a new MAS government, had his successor been elected. Had the MAS lost the election, perhaps he would have faced persecution. Given Morales's own penchant for making enemies among his opponents through judicial persecution, he might have faced legal jeopardy. Moreover, events in Brazil might have influenced his thinking. Luiz Inácio "Lula" da Silva found himself in jail on flimsy legal charges after his handpicked successor, Dilma Rousseff, who lacked his political astuteness, was impeached on corruption charges precisely to prevent investigations into corruption in congress. Lula was later released, but not until after Jair Bolsonaro campaigned for and won office

and appointed Lula's prosecuting judge, Sergio Moro, minister of justice. The accusations by the minister of the interior of the Añez government, who said Morales had created a "narco-terrorist state," should be enough to settle the matter that Morales faced risks. The point, however, is that he had a choice, and he chose to make matters worse for himself.

Morales chose to fight a referendum on presidential term limits, which he lost. He then made the case that, notwithstanding the referendum result, term limits were a restriction on the right of voters to vote for their preferred candidate as many times as they wish, and a violation of the right of politicians to run for office. The Supreme Electoral Court (TSE) upheld Morales's arguments, which persuaded many Bolivian voters only that the court was in his pocket. As Anria and Cyr argue:

In bypassing a legitimate electoral outcome, Morales overstepped a line, sparking fears of an authoritarian desire to hang onto power despite legal obstacles and popular opposition. At the same time, the decision by the TSE to greenlight Morales's candidacy shattered Bolivians' trust in the court's independence. . . . Taken together, these actions largely shaped the meaning and meaningfulness of the contentious electoral process of 2019 and tainted them with suspicions of illegality. Suspicion around the electoral process and fraud or vote-rigging accusations became credible—whether those were real or not—and weaponized by opponents.

Elsewhere, Anria (2016: 99) has described Bolivia's political regime as "democratic with an adjective"—one that exhibits delegative features, like the dominance of a personalistic leadership and weak horizontal accountability." Morales's concept of rule was all the more stubbornly delegative precisely because he saw himself as a servant of the people. His mantra was "to rule by obeying" (*mandar obediciendo*). Why should he abide by the constitution or even a referendum result when his leadership was necessary to serve and obey the will of the people? Admittedly, the 2016 referendum showed that the public disapproved of a bid for a fourth term in office, but polls also showed he would win. Morales remained, if not overwhelmingly popular, considerably more popular than any other politician in Bolivia. Why, then, Morales wondered, should he be constrained by the very constitution he had helped to create?

When asked about his decision to overturn the referendum result and run for a fourth term, Morales suggested that the decision was not his; rather the initiative came from the National Coordination for Change (CONALCAM), an organization that brought together social movements aligned with the MAS government: "delegates from our grassroots movement CONALCAM, at an emergency meeting about other matters, all of a sudden asked if it would be possible for me to stand in the next election, because the economy was doing well. For me it was a surprise. I

just recommended that they look into a possible legal path to permit what they wanted. It was their request.”<sup>23</sup>

Did Morales really believe he was bowing to grassroots pressure? It seems more plausible that he was afraid of losing the unity of the left, especially given the historical precedent of the National Revolutionary Movement (MNR) of the 1950s that, after a decade in power, was unable to sustain cohesion among diverse social forces and, in the context of economic instability, was overturned by a “restorative” military coup that unleashed repression and violence that lasted until the 1980s. This history was well known to activists in the MAS. Whether Morales’s decision was motivated by a sense of service, fears based on historical and regional precedent, or by megalomania, it sent shock waves through Bolivia’s political society, sparking a conservative pro-democracy backlash. Opposition came from a hodgepodge of urban middle sector groups—especially students and professionals—concerned about the erosion of democracy, dissident elements that previously supported the MAS, and civic committees in regions like Beni, Pando, Santa Cruz, and Tarija.<sup>24</sup> In this context, even the hint of irregularities—which Morales implicitly accepted when he agreed to new elections before he was compelled by the security forces to resign and flee—was enough to strip the government of its electoral legitimacy.

Did Morales engage in the construction of an authoritarian alternative like Chávez from 2006 to 2012? The answer is no. Morales’s vice was personalism, and his error was to seek to perpetuate himself in power beyond established constitutional term limits. The miscalculation arose less from fear than vanity: he came to see himself as indispensable. Nor is there evidence that he had overweening ambition of the sort that compelled Chávez to construct an authoritarian governing project. Again, under Morales, Bolivia was a delegative democracy with adjectives. That is, Morales embraced a delegative style of rule qualified by adherence to the principle of *mandar obedeciendo*, on the one hand, and a refusal to be limited by the constitutional constraints on office holding, on the other. Morales was more democratic than republican, and he was certainly illiberal. This reflected both his personalist style of rule and the nature of the Bolivian state.

As noted above, horizontal accountability concerns the state as well as the democratic regime. According to O’Donnell (2007: 60), horizontal accountability “is the existence of state institutions that are legally enabled and empowered, and factually willing and able, to take actions that span from routine oversight to criminal sanctions or impeachment in relation to actions or omissions by other institutions of the state that may be qualified as unlawful.” It is a defining feature of a lawful state. A neopatrimonial state, as understood by Max Weber (1978), Juan Linz (2000), and Joe Foweraker (2018), cannot be republican because rulers do not feel obligated to obey the law, nor do they place public interests above private ones (O’Don-

nell 2007: 59–60). Delegative conceptions of rule and authority are inimical to the restraints on power associated with republicanism. Rulers may feel that they are pursuing what is, in their view, the public good, and therefore believe that they should not have to recognize other powers, or be restrained by institutions, that are obstacles to the attainment of their goals.

O'Donnell (2007: 61) was surely right to argue “that many of the deficiencies in horizontal accountability are the product of manifold actions where both those who commit them, and those somehow related to these actions, take as a given that republican injunctions are something to which one should at most pay lip service or take into account merely to prevent damaging consequences.” In part, this is because the state has consistently functioned in nonrepublican ways, especially with respect to the poorer and most vulnerable members of society. Horizontal accountability was eroded by choices made by Morales—and it is of little import whether those choices were supported by his social movement base—during his third term in office. Rather than allowing the courts and public opinion to constrain his options he instead asserted his control over independent branches of government in a bid to perpetuate his term in office. Had Morales been successful, it would have opened the door to more persistent constitutional violations, impunity, and an increasingly plebiscitary style of rule.<sup>25</sup>

The contrast between the efforts of Fujimori and Morales to hold onto power beyond the term limits established by their own constitutions has served to highlight the importance of the goals of the actors and the meaning of their actions in the particular, and in this case sharply contrasting, contexts in which they operated. In both cases, however, the efforts to seek third terms were unconstitutional. This claim may seem bold, since what is or is not constitutional is a matter of legal interpretation, and in both cases Fujimori and Morales were able to justify their candidacy on judicial decisions. In both cases, however, these courts had been purged and stacked by the executive.

A remarkably consistent feature of Andean constitution-making has been efforts to change to rules governing the reelection of incumbents. This speaks to the weak institutionalization of the habits and dispositions demanded by alternation in power. Fujimori changed the constitution to allow re-election, opening the door to his presidential bid in 1995. He then claimed he had only been elected once under the 1993 constitution and attempted to run again in 2000. Chávez was elected in 1998 and then, following the adoption of the 1999 constitution, he submitted all public offices, including the presidency, to “mega-elections” in 2000. After this he argued that, under the terms of the 1999 constitution, was entitled to run again in 2006. Chávez lost a referendum on reelection in 2007, but that did not deter him from insisting on another referendum in 2009 which finally eliminating term limits entirely. He ran in 2012, died shortly thereafter, and left his successor, Maduro, in a position to

run indefinitely. Correa took office in 2007 and then ran again after the adoption of the constitution of 2009, which allowed reelection. Like Chávez, he insisted he had only been elected once under the new constitution and so could run again in 2013. During his second full term he passed a constitutional amendment to allow indefinite reelection starting after the 2017 election (reversed in a referendum by his successor). Morales, as we have seen, ran in 2006, and again in 2009, after his new constitution was adopted, and then sought a third term despite, like Chávez, losing a referendum on the matter. Uribe ran for a second term in 2006, becoming the first president to be reelected in over a century.

That reelection motivated recent constitutional reforms in the Andean region can hardly be doubted, but the implications for democracy are not so obvious. Democratic theory does not supply an unequivocal view of the desirability of reelection. There are arguments for and against term limits, which have been cogently outlined by John Carey (2009: 84–86). He suggests that while reelection may provide voters with more choice and the opportunity to benefit from strong leadership, there are also risk of *continuismo*. This may be especially true in presidential system, as Linz noted, because, although they are not an intrinsic feature of presidentialism, most presidential systems have term limits as a check on overweening executive power. The historical association between presidentialism and republicanism makes this unsurprising: fear of accumulation of power in the hands of a strong executive leader, especially one with substantial popular support, is a major theme in republican political thought. O'Donnell picked up on this theme when he developed the concept of “delegative democracy,” which he viewed as having worrisome “plebiscitarian tendencies” that were consistent with such salient features of Latin America politics as “caesarism, bonpartism, caudillismo, populism” (1999: 166).

Personal ambition might partially explain the salience of reelection. Although all office-seekers are presumably ambitious, the scale of the ambition of transformative leaders is greater than most. They see themselves as undertaking heroic processes of transformation that, in their views, may take longer than a single term in office to achieve. But the need for more than one term in office is also linked to personalism—the sense that the leader's presence is essential to the completion of the project of change. More important, personalism reflects weak institutions in general, and a lack of commitment to the principle of alternation in office in particular. If highly personalistic leaders run for office without the intention of stepping down and quietly retiring when their mandates are completed that reflects on the precariousness of the political system as a whole as well as the ambition of individual leaders.

Indeed, the plebiscitarian tendencies of delegative rulers reflect not only the political regime but also the state. In delegative democracies, elec-

toral winners not only tend to believe they have a mandate to govern as they see fit, but also to use the state as an instrument to advance their political agenda—irrespective of mechanisms of horizontal accountability and the rule of law. It is this fact that makes elections such high-stakes events, and which elevates the importance of reelection to a matter of the greatest possible urgency for political leaders. Whoever wins elections is given the opportunity to colonize, if not plunder, the state for their term in office. We see this logic in the autocratic behavior of Rafael Correa in Ecuador, as described by Grace Jaramillo in her chapter in this volume. Correa believed that he was responsible for the entire state apparatus, including the members of supposedly independent branches of government. The winner-take-all features of presidentialism facilitated his caesarism by giving the executive full control over the central government bureaucracy, without the need to command the confidence of the legislature; and the weakness of the rule of law enfeebles the capacity of the judiciary to uphold constraints on executive power. The result is something approaching what Montesquieu called despotism, the avoidance of which was the whole purpose of the separation of powers.

Jaramillo's chapter provides lessons for citizens and politicians seeking to escape the fate of democratic backsliding caused by executive aggrandizement in the guise of republican refounding. The story, worthy of a Machiavellian drama, is one of chance, contingency, and calculation. First, Correa agreed that the removal of term limits would enter into force only after he left office, perhaps a strategic miscalculation on his part. Second, Correa's chosen successor, his vice president Lenín Moreno put the question of term limits to a referendum. Third, the public voted in favor of term limits, thereby barring Correa from seeking office as he had intended in 2021. Had *correista* candidate Andres Arauz been elected in 2021, it is unclear whether this would have led to further changes to the constitutional order to enable Correa to return to office in the future. One lesson, however, can be drawn: the popularity of a strongman does not necessarily translate into support for unlimited presidential terms. Voters also rejected the elimination of term limits in Venezuela and Bolivia. As Michael McCarthy notes, Chávez narrowly lost his campaign for constitutional changes to eliminate presidential term limits in 2007. Undeterred, he held another referendum in 2008 which eliminated term limits on all public offices. His victory opened the door to the pursuit of reelection in 2012. Similarly, Morales lost a referendum on presidential term limits in 2016, and then appealed the decision to the Supreme Electoral Court, which he controlled. As Santiago Anria and Jennifer Cyr note, the court's decision to allow Morales to run for office indefinitely undermined confidence in both the court and raised questions about the legitimacy of his Morales's reelection in 2019. These doubts played into the coup against him.

Correa, Chávez, and Morales were ambitious leaders who in many ways were guided by what Max Weber (1958: 120) called an “ethic of ultimate ends.” They felt called to devote themselves to the cause of justice, if necessary at great personal sacrifice. Such leaders have a capacity to establish bonds of trust and faith with their supporters who see in them the embodiment of their own struggles, and this complicates the necessity in democratic politics of making compromises, sharing power—in a word, acting responsibly in the political sense of the term (Weber 1958: 95). Instead, they see politics as a means to save the nation and are deeply suspicious of opposition and criticism, and do not hesitate to suppress it within their own ranks. This explains the surreptitious nature of internal dissent in such regimes, the penchant for polarization, and the way that republican institutions are slowly undermined and neutralized.

### Dispute over Democracy

In a perceptive analysis of debates on democracy in Latin America following the rise of the electoral left in the 2000s, Gerardo Munck (2015) made a crucial observation: the liberal democratic model of democracy, the point of reference for the literature on democratic transitions since the 1980s, was no longer above dispute. The left may not have had a clearly articulated alternative model of governance, but many left-wing governments were certainly practicing democracy differently. According to Munck, one major point of contention concerned political institutions. The insistence on respecting existing institutions—that is to say, constituted power—in the context of societies with deeply entrenched inequalities was increasingly seen as imposing unwarranted limitations on popular sovereignty and majority rule—the constituent power of the people.

An equally critical axis of debate concerned what Munck (2015) called the “social environment of politics.” The left’s critique of liberal democracy stressed the way in which concentrated economic wealth and its political consequences made a mockery of equal citizenship. Latin America has a long history of oligarchy—a mode of rule in which office holders govern with a view to the private interests of the wealthy few—and structures of social exclusion rooted in colonialism.<sup>26</sup> Policies of national industrial development and political incorporation by means of corporatism and clientelism throughout the 20th century did little to reduce inequality, nor were rights of citizenship universally secured. Moreover, transitions to democracy in the 1980s were often the result of elite bargains in which the price of democracy was acceptance of the economic status quo that left persistent inequalities intact.

Despite the precariousness of citizenship rights, many scholars argue, or assume, that liberalism *should* be the normative baseline for the discus-

sion of democracy. Jared Abbott and Steven Levitsky argue that the liberal rights and freedoms are “necessary conditions for the exercise of citizenship under all governments.” They go on to say that, “as [T.H.] Marshall and others have argued, civil and political rights are an essential foundation for the achievement of social rights” (Abbott and Levitsky 2020: 382). Furthermore, they suggest the left can be dichotomized into “radical” and “social democratic” types, where the radical left is statist while the social democratic left is market-oriented.<sup>27</sup> Although the two lefts are differentiated in terms of their economic policy orientations, the purpose of Abbott and Levitsky’s analysis, in part, is to show that the radical left seeks to use the state to advance social rights while often trampling on civil and political rights (including the electoral components of democracy and surrounding rights and freedoms), while the social democratic left is more respectful of civil and political liberties. Respect for market economics goes hand in hand with liberal politics.

As suggested in Chapter 2, Latin America’s distinctive historical trajectory does not fit the classic Marshallian pattern.<sup>28</sup> In much of the region political rights were extended prior to the consolidation of civil rights and liberties—and social rights have lagged. The precariousness of the citizenship rights and freedoms crucial to sustaining liberal democracy generates the toxic dialectic of populist mobilization and oligarchic modes of rule. This dynamic reflects the failures of both statist and more recent neoliberal market-oriented models of development to construct robust states based on the rule of law. The assumed complementarity of market-led development and liberal politics is at odds with the Latin American historical experience. The rise of left-wing populism—with its attendant risks to democracy—is clearly and explicitly a reaction to neoliberalism. Moreover, social democracy has rarely taken root in the region characterized by gross inequalities.

Only two or three small countries in the region followed a trajectory of development approximating the social democratic route to citizenship of Western Europe. Uruguay, Costa Rica, and with significant qualifications Chile, established inclusive rights to citizenship, welfare policies, and secular public education in the late nineteenth and early twentieth centuries, and this lay the foundation for more inclusive citizenship rights backed by lawful states (Cameron 2021a). The robustness of the rule of law in these countries sets them apart and makes it possible to describe their progressive politics as impeccably democratic (which did not prevent military rule in the two Southern Cone cases). Most of the other cases classified by Abbott and Levitsky as social democratic—for example, Peru’s Ollanta Humala—were simply weak version of their more radical populist counterparts. The problem with the “two lefts” argument is that it neglects the ways in which radicalism invariably reflects social conditions of gross inequality, colonial

legacies, the persistence of oligarchic power, and corresponding patterns of social injustice (Cameron 2009).

One effect of the weakness of social democratic tendencies in the region is the extreme vulnerability of the poor in the context of the Covid-19 pandemic, as well as the uneven effects of public health measures adopted by governments in the region. Rarely has the absence of a democratic state been more apparent than in the abandonment of people who lack access to basic health services. While it is too early to describe the full political impact of the pandemic, as Verónica Hurtado and Paolo Sosa-Villagarcía note in Chapter 9, public dissatisfaction with Covid policy responses may contribute to pressures for change that are not necessarily expressed only through democratic protest, but may also take the form of a yearning for strong leaders that contributes to the erosion of democracy.

The Eurocentric tenets of liberalism are especially problematic in countries with substantial Indigenous communities. As Jason Tockman argues, liberal rights and freedoms are individualistic, but Indigenous conceptions of rights of self-determination tend to involve collective decision-making, communitarian practices, and they rest on habits and customary practices that predate the construction of liberal institutions. More broadly, in the Latin American context, both historically and at present, liberalism has tended to uphold the priority of constituted power over demands for social justice. In the past, especially the nineteenth century, liberals made alliances with authoritarian forces; today they have tended to embrace *neoliberalism*. The radicalism of the popular sectors consists in demands for improvements in their material conditions of life that are not easily accommodated within constituted power arrangements, especially under neoliberalism. The social democratic compromise in Western Europe preserved capitalism by offering concessions to the working and middle classes. Neoliberalism forecloses this option, thereby radicalizing the popular sectors—especially Indigenous peoples whose very existence is threatened. In short, the challenge for democracy is not the radicalism of the popular sectors but the radicalism of neoliberalism.

Latin American left-wing movements and parties have rejected neoliberalism but they have not rejected liberalism so much as popularized it through the struggle for inclusion, citizenship rights, and the constituent power of the people. Benjamin Arditi (2008) calls this a “post-liberal” politics—a politics that seeks to use democratic institutions to democratize society, to make the rights and duties of citizenship effective. In contrast, neoliberalism enables wealthy minorities to use their resources to block, undermine, disrupt, deny and veto changes that threaten their interests (see Cameron 2019: 94–101, for a fuller discussion). It does so through such strategies as demobilization, deregulation, depoliticization, privatization, surveillance, and incarceration.

Carmen Ilizarbe's chapter on Peru shows how inequality and corruption have been exacerbated by neoliberalism, undermining the democratic regime that was restored in 2000. As she notes, this might seem surprising, not only because Peru achieved sustained growth and stable technocratic governance, but also because of the continuity of democratic institutions after the fall of Fujimori in 2000. Peru would appear to be a country in which alternation of power was well institutionalized. Its democratic presidents avoided executive-led republican re-founding, preferring instead to adhere to the 1993 constitution. Indeed, Abbott and Levitsky (2020: 173) report improvements in liberal democracy scores in Peru in this period.

Adherence to the 1993 constitution was not motivated by a commitment to democratic procedures but rather the economic model it enshrined. A critical opportunity was lost when the government of Alejandro Toledo (2001–2006) failed to seize the opportunity, provided by Congress and approved by the Constitutional Tribunal, to reform or replace the constitution; nor did Toledo purge the armed forces of officials associated with corruption and the abuse of power. The party system remained broken, hindering the operation of the legislature, which became a market for influence peddling. Successive governments, regardless of their ideological stripe were limited to measures consistent with the 1993 constitution, despite the severe limits it placed on the role of the state. Meanwhile, firms like Odebrecht captured and corrupted one government after another, to the point that all former presidents were embroiled in corruption scandals. In 2021, growing public frustration with widespread corruption and neglect boiled over, leading to the sudden and unexpected rise of a candidate, Pedro Castillo, who promise to change the 1993 constitution in order to alter the neoliberal economic model. The response from the political and media establishment was ferocious. The election was baselessly denounced as fraudulent, electoral institutions that had served Peru with impartiality were attacked, and members of the political establishment—including the interim president Francisco Sagasti—were denounced as communist sympathizers simply for their adherence to the democratic rules of the game.

Colombia projects more than an image of liberal democracy, even as the political regime coexists with endemic social violence that undermines inclusive popular representation and participation. It too is reported by Abbott and Levitsky (2020: 173) to have registered an improvement in its liberal democracy scores. This is not surprising. As Jan Boesten shows in his chapter, Colombia's political institutions are "fully liberal": they have the capacity to resist majoritarianism, restrain a caesarist leader like Uribe, and provide a normative framework for the expansion of rights and constitutional reforms. And yet many of Colombia's democratic institutions, especially at the local or regional levels where the presence of the state is uneven, have been penetrated and captured by *de facto* powers including

illegal and armed criminal organizations as well as regional bosses or oligarchs. The alliance among armed actors and rural landowners has underpinned powerful patronage networks that sharply limit the rights of citizens. Local populations, civil society organizations, reports, and environmental defenders are routinely targeted for harassment and even assassination. Colombia's endemic violence limits the democratic functioning of the political regime in ways that are condemned by human rights groups, even as the political system itself appears to—and in fact does, at least within the scope of its operation—function like a liberal democracy.

The crucial takeaway from Boesten's argument is not that Colombian democracy is arrested on the pathway toward a fully functioning polyarchival regime but that the liberal and oligarchical features of its operation work together. Liberal democracy works with oligarchy, violence, and corruption to insulate the Colombian regime from pressures for change. The compatibility, indeed the mutual dependence, of liberalism and oligarchy in Colombia rests upon the patrimonial character of the state. As Boesten shows, the blurring of the distinction between legal and illegal, and the interpenetration of private and public interests in the operation of state institutions is the underlying enabling condition for this mutual dependence.

## Conclusion

We began with a series of puzzles, dilemmas, and challenges that we believe democratization research must confront. In the first place, coups have not entirely disappeared from the region but, by and large, the problems of democracy are endogenous to democratic regimes. Threats to democracy more commonly arise from the antidemocratic actions of elected leaders, often aided-and-abetted by their supporters. These actors may be animated by diverse conceptions of democracy, and strongly held beliefs about the justice or injustice of social arrangements. For scholars who recognize the importance of institutions, this suggests a critical challenge: how do we take institutions seriously without reifying them?

Accepting liberal democracy as the normative baseline for analysis not only ignores the complicated history of liberalism in Latin America, it potentially reinforces a narrative frame that shifts attention away from the effects of neoliberalism. A vibrant and progressive liberalism cannot turn a blind eye to systemic injustices, structural inequalities, and colonial legacies that shape the way democracy is practiced, nor can it favor constituted powers and established institutions that support status quo arrangements that are an obstacle to deeper democratization. For this reason, the present volume has sought to expand the conceptual repertoire of the democratization literature in multiple directions.

First, if the purpose of analysis is to distinguish between democratic and non-democratic regimes, the normative baseline is usefully framed in terms of the alternation in power. This is electoral democracy's *sine qua non*, and the foundation of the electoral components of democratic regimes. Second, the critical importance of the republican dimension of regimes merits more attention. The rise of caesarist leaders—the specter haunting all republican thought—rarely involves a direct challenge to democracy or liberalism, at least in the first instance; rather it takes the form of a disregard for constitutionalism and the separation of powers. Third, regimes are only as good as the states that support them. A formally democratic regime will not thrive in a neopatrimonial state, but will function more like oligarchy than a liberal democracy. This points to the urgent need to enhance both state capacity, which is necessary to enforce the rights and duties of citizens, and representative institutions, which are the mechanisms by which republican government is democratized.

Finally, the path toward a citizens' democracy—a just and sustainable balance between the requirements of democracy, liberalism, and republicanism—is to found not through the dogmatic defense of existing institutions nor the embrace of populism, caesarism, personalism, and delegative rule. It is a difficult path of community-building based on the often reluctant acceptance of political equality—not just as a legal fiction, but as an intrinsic feature of citizenship. Democratic regimes may persist under conditions of extreme inequality, but the quality of democracy depends on the widespread acceptance that democracy is a system in which everyone contributes and everyone benefits. Inequality undermines the possibility of finding the common goods that constitute a shared form of life within a political community; it is inimical to the ethos of democracy. Perhaps the most important lesson we can draw from the challenges to democracy in the Andes is that sharing in the exercise of political power is difficult to sustain unless all citizens can recognize one another as persons of equal worth.

## Notes

1. Grace M. Jaramillo, Santiago Anria, and Jennifer Cyr provided helpful comments on this chapter.

2. Bolivarian Alliance for the Peoples of Our America (ALBA).

3. On neoliberal populism, see Roberts 1995.

4. From his deathbed, Chávez tapped Nicolás Maduro as his successor; Iván Duque was an Uribe protégé, elected after Manuel Santos (2010–2018) broke with his predecessor and negotiated a peace accord with the guerrillas. Like Santos, Lenin Moreno was expected to continue the policies of his mentor, Rafael Correa, under whom he had served as Vice President, but unexpectedly turned against Correa shortly after his 2017 inauguration. Moreno was succeeded by Guillermo Lasso who won a runoff election against Correa ally Andrés Arauz in 2021. After García's

term ended in 2016, Pedro Pablo Kuczynski was elected. He was impeached in 2018, replaced by his Vice President Martín Vizcarra, who in turn was briefly removed by the head of Congress, Manuel Merino, in 2019, only to be replaced by Francisco Sagasti, who served out the remainder of Kuczynski's term. Sagasti was replaced by Pedro Castillo, a former school teacher with no prior political experience. In Bolivia, Morales was deposed in a civil society coup by Jeanine Áñez in 2019, who convened elections in which were won by Luis Arce of the MAS.

5. The regime also defines the manner in which power is exercised by incumbents of governmental offices, including the resources available to them, and authority conferred upon them by virtue of their offices, as well as the limits placed on the discretion and judgment they can exercise. In a democratic regime, at least in the modern nation state, the principal public offices of government are filled by means of elections that are free, fair, inclusive, and institutionalized.

6. For Max Weber (1958, 1978) the state was a relation of domination. States “give orders,” O’Donnell (1999: 135) notes, in the dual sense of commands that are to be obeyed and that affirm and reproduce a given order. This order provides a certain pragmatic predictability in the sense that the expectation of enforcement of authoritative commands leads to habits of compliance and obedience, but it also enables the provision of certain public goods and the solution to collective action problems that give it texture and meaning. Such goods may include rights, as well as mechanisms of accountability, that not only restrain the abuses of state power but also enable the activities of citizenship.

7. This is consistently revealed in surveys by *Latinobarómetro*. See <https://www.latinobarometro.org/lat.jsp>.

8. Neither Paniagua nor Rodríguez were directly-elected presidents.

9. See Helmke and Levitsky 2004.

10. The components of democracy in Chapter 2 should not be treated as a checklist, but an ecology of institutions.

11. Indeed, the debate is often framed in terms of “deconsolidation.” See Foa and Mounk 2017; Diamond 2015; Diamond and Plattner 2015.

12. Omar Sánchez-Sibony calls this an “individually sufficient family structure,” meaning it is sufficient to find one attribute of liberal democracy to be missing in order to classify a case as competitive authoritarian. “From the viewpoint of descriptive inference, the individually sufficient family structure does endow the concept of competitive authoritarianism with a lower degree of internal differentiation (how much we can learn about a case by the fact that it is an instance of the concept), but it provides for greater differentiation of the negative pole of the concept; namely, democracy as a regime type” (2021: 121).

13. To quote Sánchez-Sibony again: “the conceptual structure of competitive authoritarianism forces researchers to uphold a demanding procedural definition of democracy, such that all its key hallmarks are included” (2021: 121). This means classifying a case as an instance of competitive authoritarianism may not tell us much about the regime in question, but it does ensure fewer cases are included in the set of democracies. In effect, only liberal democracies are included.

14. See Centellas 2018; Driscoll 2017; Faguet 2018; Alberti 2016.

15. For example, Levitsky and Loxton (2013: 115) claimed “the election of Evo Morales . . . ushered in a period of competitive authoritarianism,” and Sánchez-Sibony (2021: 119) appears to be of the same view: “While the MAS’s accession to the presidency in 2005 occurred via democratically sanctioned channels, its exercise of power was not democratic. The incumbent party steadily skewed all the relevant arenas of political competition, such that access to elected office became, in

fairly short order, biased in its favor.” Velasco Guachalla and colleagues (2021: 68) argue, however, that the decision by Bolivia’s Constitutional Tribunal to allow Morales to run for a third term “marked the country’s transition to competitive authoritarianism.” That occurred toward the end of Morales’s second term. Likewise, Franz Xavier Barrios (2017) rejected the claim that Bolivia’s political regime under the MAS was competitive authoritarian from the beginning but argues that the regime became more authoritarian after 2013. Democracy survived the constitutional reforms of 2009 but became more authoritarian after 2013. The merit of Barrios’s account is that he astutely identifies the problem with Bolivian democracy under the MAS in terms of alternation of in public office.

16. If Morales’s regime was authoritarian, how could his removal be a coup? (Lehoucq 2020; Vargas Llosa 2019). Apparently, “competitive authoritarian” regimes are rather fleeting (Velasco Guachalla et al. 2021). Indeed, the majority of attempts to construct them fail. Since these “regimes” seem to come and go with elections, the observer could be pardoned for wondering whether they “fail” not because they are brittle but because of a conceptual confusion between changes in regimes and changes in governments.

17. Naturally, no political leader ever explicitly attempted to construct a competitive authoritarian regime. There is a rough consensus among policymakers—reflected in practice rather than rhetoric—that democracy has been interrupted in Venezuela in 2002, Honduras in 2009, and Bolivia in 2019 and that Cuba, Venezuela, and Nicaragua have established authoritarian regimes. They have been excluded (or self-excluded) from the Organization of American States.

18. Populism, historically, denoted the mobilization of the popular sectors—that is, the working class, peasants, and lower status middle sectors—against a corrupt and exclusionary political establishment, with the promise of inclusion and redistribution. The populism of Latin America’s left turns was rooted not in statism but decades of neoliberal globalization.

19. For the view that Ecuador was a case of competitive authoritarianism. See Sanchez-Sibony 2018.

20. The Barrios Altos massacre in November 1991.

21. Similarly, the allegations by Fujimori’s daughter, Keiko Fujimori, that the 2021 election was marred by fraud were motivated in part by the fact that occupying the presidency would provide five years of immunity from investigations for corruption.

22. Although the process of autocratization began with the election of Chávez in 1998, and accelerated with his reelection in 2006, I concur with Pantoulas and McCoy’s claim (2020: 391) that Venezuela’s authoritarian turn was completed when Maduro called for early elections in 2018: “Maduro’s victory amidst a partial opposition boycott and international condemnation set the stage for a major constitutional clash in January 2019, when the world was divided between acknowledging Maduro’s second term or an opposition-declared interim president, Juan Guaido.”

23. See “Bolivia: Exile or Return,” *Al Jazeera*, December 3, 2020, <https://www.youtube.com/watch?v=y6lw6QjQdsM>.

24. McNelly 2019.

25. Lehoucq (2020: abstract) argues that “Evo’s departure does not satisfy standard definitions of a ‘military coup.’ This accusation diverts attention from the chain of events leading to Evo’s resignation—from the botched elections to the unexpected snowballing of protests that in turn produced splits within the regime over how to respond. What the 2019 election crisis in Bolivia suggests is that protest and regime paralysis may be necessary conditions for defeating incumbents

in less-than-democratic systems.” The fact that Morales used executive power to undermine the constitutional order in no way changes the fact that he was deposed by a coup. To be sure, Lehoucq is right that it was not a *military* coup that brought Añez to power. It was a *civil society* coup, in which civilians created the conditions in which the military was compelled to play a role as an arbiter of a violent conflict which resulted in the nonconstitutional removal of a civilian government. The fact that the civil society coup occurred in reaction to executive aggrandizement reinforces the point that strengthening republicanism in Bolivian politics is a challenge for the future as great, perhaps, as strengthening liberalism.

26. On oligarchy, see Foweraker 2018; Foweraker and Cameron 2020, 2021b. On coloniality, see Quijano 2007.

27. First articulated by Castañeda (2006), the dichotomy found an echo in mainstream scholarship. See Weyland, Madrid, and Hunter 2010.

28. The distinctive trajectory, first noticed by Guillermo O’Donnell, is discussed in Chapter 1, as well as in Montambeault, Balán, and Oxhorn 2020 and Cameron 2020.

# Acronyms

ACLED	Armed Conflict Location and Event Data Project
ADN	Nationalist Democratic Action
ALBA	Bolivarian Alliance for the Peoples of Our America
AUC	United Self-Defense Forces of Colombia
BCV	Central Bank of Venezuela
CCD	Democratic Constituent Congress
CELAC	Community of States of Latin America and the Caribbean
CITIGAT	Circunscripción Territorial Indígena y Gobierno Autónomo de Tigua
CNE	National Electoral Council
CONAIE	Confederation of Indigenous Nationalities of Ecuador
CONALCAM	National Coordination for Change
CPCCS	Council of Citizens' Participation and Social Control
CPCCS-T	Transitory Council of Citizens' Participation and Social Control
CSUTCB	United Confederation of Rural Laborers of Bolivia
EU	European Union
FARC	Revolutionary Armed Forces of Colombia
FARC-EP	Revolutionary Armed Forces of Colombia–People's Army
FBI	Federal Bureau of Investigation
GDP	gross domestic product
IACHR	Inter-American Commission on Human Rights
ILO	International Labor Organization
ISI	import substitution industrialization
JEP	Special Jurisdiction of Peace

LPC	Liberal Party of Colombia
MAS	Movement Toward Socialism
MIR	Revolutionary Left Movement
MNR	National Revolutionary Movement
MVR	Fifth Republic Movement Party
NGO	nongovernmental organization
OAS	Organization of American States
OHCHR	Office of the High Commissioner for Human Rights (UN)
PARES	Foundation for Peace and Reconciliation
PdVSA	Petróleos de Venezuela Sociedad Anónima
PSUV	United Socialist Party of Venezuela
SSHRC	Social Sciences and Humanities Research Council of Canada
TCP	Tribunal Constitucional Plurinacional
TIPNIS	Isiboro Sécore Indigenous Territory and National Park
TSE	Supreme Electoral Court
UBC	University of British Columbia
UN	United Nations
UNASUR	Union of South American Nations
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNE	National Union of Educators
UNFP	United Nations Population Fund
V-Dem	Varieties of Democracy
WHO	World Health Organization

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## About the Book

ALTHOUGH MILITARY COUPS ARE RARE IN THE ANDEAN COUNTRIES, DEMOCRACIES remain prone to deep political crises caused by elected leaders (especially strongmen, or caudillos) who abuse their power—often with broad public approval. What explains this phenomenon?

The authors of *Challenges to Democracy in the Andes* propose answers to this question. Offering an analytical framework that disaggregates the components of democratic regimes, along with case studies and comparisons from Bolivia, Colombia, Ecuador, Peru, and Venezuela, they describe and explain political changes within the gray zone between democracy and authoritarianism.

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