who will fight with all their strength to prevent an Israeli withdrawal and the establishment of a Palestinian state. But what is no less important is that on the Palestinian side as well a new situation has emerged. National unity has dissolved, the national movement has atrophied and declined, and the idea has become acceptable that if there won’t be two states for two peoples, it is better that there be one state. 

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Democracy Undermined

Constitutional Subterfuge in Latin America

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Early in the morning of June 28, 2009, the president of Honduras, Manuel “Mel” Zelaya, was rousted out of his bed by soldiers and sent out of the country in his pajamas. It was an old-fashioned coup d’état, evoking, seemingly, a bygone era. The coup d’état seemed out of place because democracy has taken hold everywhere in Latin America except Cuba. In principle, now, elections are the only sanctioned route to the presidency; and, in principle again, presidents leave office after completing their term—only then, but definitely then. What was novel, in fact, about the ouster of Zelaya was the fear that prompted it—what can be called “constitutional subterfuge.” The military in Honduras acted in a clumsy way to avert a very real threat to democracy—Zelaya’s move to call an unprecedented special election to remove a term limit on the presidency—in that country and elsewhere in the region. What they did was wrong, and yet there is an alarming trend in Latin America toward dismantling democracy by legal subterfuge under the cover of populist or even socialist rhetoric.

Opportunistic political elites don’t have to break the law when the rule of law is so pliable—that the constitution can simply be refashioned. Such a strategy seems legitimate; it disarm critics; and it even provides a protective shield for the emerging regime. Democratic means are used to dismantle democracy and install in its place something new, something that looks—in Venezuela, Ecuador, and Bolivia—decidedly like a new form of authoritarianism.

The region-wide transition to democracy and unfettered markets in the 1980s produced uneven and inequitable results, leading to a loss of credibility for liberalism. Critics proliferated. “Outsiders” fared well in challenging traditional political parties and their candidates. Some of these outsiders self-destructed, such as Alberto Fujimori in Peru and Abdalá Bucaram in Ecuador. Venezuela’s Hugo Chávez, a former military officer, found a way to success that is now being emulated: refashion weak democratic institutions into a self-protective cocoon. The ideological cover for the project comes from the detritus of Marxism-Leninism: a “dictatorship of the proletariat” controlled through “democratic centralism” is necessary to fend off the “bourgeoisie” while the needs of the struggling masses are addressed. There is, in fact, no economic plan or strategy, but certain policies of Marxism-Leninism, nationalization in particular, are found to be politically useful.

Since the decade of the 1980s, when so many Latin American countries made a tran-
sition from authoritarianism to democracy, there has been widespread political disenchantment. Public opinion polls regularly reveal a distrust of established political institutions, above all toward the legislative branch and all the political parties. Support for democracy is best described as “anemic” or “grudging.” In the last two decades, elected presidents have been unable to finish their terms of office in Argentina, Bolivia, and Ecuador—and now in Honduras. Elsewhere in the region there is a frequent questioning of the legitimacy of political institutions, including elections. In Costa Rica, one of Latin America’s most mature democracies, the losers in the 2006 election and the 2007 referendum made persistent yet vague charges of fraud and refused to accept the mandate of the voters, even though they could not describe the location, nature, or magnitude of the alleged fraud. Something similar happened in Mexico in the 2006 elections, when the defeated candidate, Andrés Manuel López Obrador, refused to accept his defeat, asserting that he would form an alternative government. The loser in Peru’s 2006 election, Ollanta Humala, was similarly defiant. Efforts to reduce the credibility of electoral processes have taken a toll, not just on the victorious candidates but on the legitimacy of democracy itself.

Former and sitting presidents have frequently taken advantage of the discrediting of political institutions to press for repealing constitutional barriers to their own re-election. Zelaya in Honduras made a brash bid. Other examples can be found on all sides of the political spectrum, from Fujimori in Peru, to Fernando Henrique Cardoso in Brazil, to Oscar Arias in Costa Rica, to Álvaro Uribe in Colombia and Daniel Ortega in Nicaragua—as well as Chávez in Venezuela, Rafael Correa in Ecuador, and Evo Morales in Bolivia. These politicians take advantage of the weakening of democratic institutions, but at the same time their self-serving behavior further weakens the same institutions. The argument is that all-knowing individuals, or as Arias put it (presumably describing himself), “strong leaders,” are more important than carefully nurtured institutions.

Although democracy is being questioned and even battered throughout Latin America, what is happening in Venezuela, Ecuador, and Bolivia is qualitatively different. It is more than a “ratcheting up” of the assault on democracy; it is a deliberate, well-designed project to deconstruct democracy and substitute something else in its place, poorly defined as that may be. What is new here—and completely unanticipated by the legions of academics who wrote in the 1980s and 1990s about the “transition” to democracy—is the use of democracy to dismantle democracy. These projects pose a political and moral dilemma: how do you oppose political change that has been approved by a majority, sanctified by elections? Especially in poor countries with marked income and wealth disparities, which frequently overlap with race, how do you in good faith oppose the political projects of those who not only speak in the name of the oppressed, but who have the electoral support of the oppressed?

Even a superficial knowledge of political history in other parts of the world suggests that democracy does not always produce good outcomes or, more pointedly, that popular elections do not always produce desirable results. Adolf Hitler came to power through a crisis of existing democratic institutions and his own skillful participation in those same institutions. But Hitler is an extreme case, and Weimar Germany is very distant from, say, the highlands of contemporary Bolivia. Invoking the example of Hitler marks one as an alarmist (even if the “Red Ponchos” in Bolivia do have an uncanny resemblance to the Nazis’ “Brown Shirts”). There is nothing comparable to the fall of Weimar in Latin America’s recent political history that might lead one to question the acceptance of free, openly contested elections.

The most notable—or notorious—case of constitutional subterfuge in Latin America is that of Venezuela. Unlike most other Latin American countries, Venezuela did not fall prey to military authoritarianism in the heady decades of the 1960s and 1970s. A two-party democracy held sway, beset by cronyism and corruption. The prevailing calm came to an end in 1989 with riots sparked by an economic austerity program.

Two hundred lives were lost, and so was the regime’s legitimacy. The administration of President Carlos Andrés Pérez was ineffectual and unpopular. In 1992, officers, led by then-
Lieutenant Colonel Hugo Chávez, attempted a coup d’état, but were foiled and arrested. Elections were held the following year, in 1993, and Rafael Caldera was elected to serve a term from 1994–1999. Caldera had been sympathetic to the attempted coup, and one of his campaign promises was, in fact, to secure Chávez’s release from prison. Caldera’s term was marked by economic crises and “zig-zags” in economic policy. Although Caldera ran as an independent, he was very much a member of the country’s traditional political elite, and his presidency further discredited the state.

An unrepentant Chávez emerged from prison in 1994—having been pardoned after two years of incarceration—with enough of a name for himself to run for president in the 1998 elections. He pledged to end corruption and to press for the election of a constituent assembly to write a new constitution. Chávez’s victory in the election was more than a triumph for him; it was a stinging indictment of Venezuela’s democracy. So great was the loss of legitimacy that Chávez, an outsider who had attempted to use violence to seize control of the state, was elected.

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The enactment of a new constitution was followed by elections. Chávez won a six-year term in July 2000. As the nature of the Chávez regime unfolded, the opposition grew increasingly frustrated. Nearly all opposition groups boycotted the August 2005 National Assembly elections, giving Chávez a political windfall—near complete control of the legislature. Chávez won reelection in December 2006. The next month, taking advantage of his dominance of the National Assembly, Chávez asked deputies for “special constitutional powers” to rule by decree on a broad range of issues. Authority was quickly granted, and Chávez used it to do things previously not legally possible, such as nationalizing the telecommunication industry. In August 2007, Chávez proposed additional legal changes, including measures to reorganize the government and “redefine” private property. Of late, legislation serves specific political purposes. For example, in early 2009, a series of new laws included a bill to strip the opposition mayor of Caracas of much of his authority and resources. And for himself and his allies, Chávez pushed through a constitutional amendment ending term limits for all elected officials. Chávez has taken to heart an old Brazilian quip, “For my friends, everything; for my enemies, the law.”

In Ecuador, Rafael Correa has followed a similar strategy. At the start of his 2006 presidential campaign, Correa presented himself as a nontraditional candidate, espousing political and economic sovereignty and relief for the
poor. He also proposed a constituent assembly to rewrite Ecuador’s constitution. His newly formed political party, in fact, did not run congressional candidates. After winning the presidential election, Correa called for a referendum, asking for a constituent assembly with broad powers. His party won a majority of seats in the assembly, which summarily dismissed Congress, and, in addition to drafting a new constitution, began changing the personnel and structure of a wide variety of state institutions, including the Supreme Court. The constituent assembly also began passing legislation. With this legal maneuvering, Correa was able to consolidate control over the state, sweeping aside traditional—and democratic—checks and balances on the executive. Correa maintains a constant and thunderous verbal assault on opposition figures and institutions, doles out state resources in exchange for political support, and presents Ecuador as a victim of international machinations. In 2008, the electorate was asked for a simple “yes” or “no” to Correa’s proposed constitution, which contained 444 articles. Many of the articles were enticing to voters, such as one mandating free health care for older citizens. But the constitution also allowed the president to stand for a second four-year term and granted him extensive political prerogatives, including the ability to dissolve Congress within the first three years of its four-year term. With the passage of the referendum, Correa became bolder, attacking the private sector—and other groups—and employing newly granted legal authority to demoralize, intimidate, or silence critics. In a country that has long suffered from political instability, with three recent presidents unable to finish their terms, Correa was reelected in April 2009. A well-educated Ecuadoran laments, “Today we only have an illusion of democracy.”

In Bolivia, Evo Morales was a leader of the opposition that, through roadblocks and riots, forced President Carlos Mesa to resign. The scheduled December 2007 elections were then moved up to December 2005. In his campaign, Morales endorsed the rewriting of the country’s constitution to give Bolivia’s indigenous people more political and economic rights. After winning the election, Morales pushed for a constituent assembly, one in which members of his party had more than half of the seats. The opposition was stubborn, though, and in November 2007 Morales had the deliberations moved to a military academy that was surrounded by soldiers and the militia-like “Red Ponchos.” The opposition was not permitted to enter. Riots broke out, with four killed and hundreds wounded. However, the tactic worked—a new constitution was speedily approved. It has 411 articles. The constitution spells out an appealing list of “rights” to food, water, free education and health care, sewer service, electricity, gas, mail and telephones, cultural self-identification, privacy, honor, and dignity. There are special rights for children, the elderly, families, the disabled, and eighteen different rights for indigenous groups. (Just how all these rights are to be fulfilled in what remains one of Latin America’s poorest countries is unclear.) Embedded in the constitution, too, was a clause permitting the reelection of presidents—and a provision that Morales’s present term was not to be “counted,” so that he can serve two more five-year terms. Morales was reelected in December 2009. Presciently, he had proclaimed, “The problem is not winning elections anymore, but knowing how to rule the country.”

In all three countries—Venezuela, Ecuador, and Bolivia—there are ample references to “socialism for the twenty-first century.” Morales’s political party is, in fact, named Movement Toward Socialism (known by its acronym MAS). Anti-imperialist rhetoric is constant. Venezuela and Bolivia have even expelled their U.S. ambassadors. Enemies of the United States—Iran, in particular—have been courted. National resources—prominently petroleum and natural gas—have been placed under state control. There is a wide gamut of social programs. Other countries in the region, though, also have state control of their natural resources, and some, such as Chile, Brazil, and Costa Rica, spend even more per capita on social services.

Aside from their rhetoric, what claims do Chávez, Correa, and Morales have for being progressive? What would Marx say? Is this really socialism? It used to be said of Mexico’s long-ruling Institutionalized Revolutionary
Party (PRI) that “it runs its foreign policy with its left hand, and it runs its domestic politics with its right hand.” This appears to be the case today in Venezuela, Ecuador, and Bolivia. Democratic rights have been eroded, but what has been gained remains largely symbolic—or, as is said in the region, making use of an English word, “un show.” Chávez, Correa, and Morales have no credible social “payoff” for their attacks on established political and economic institutions. Indeed, the economic results to date in the three countries are unimpressive: economic growth is flat in Ecuador and Bolivia and falling in Venezuela. In the latter country, for example, oil production has declined 25 percent since Chávez began his tenure as president; there are shortages of everything from milk to truck parts; inflation is high; and the national currency has been devalued. Moreover, in each of the three countries, there is constant political conflict, inducing widespread anxiety and distracting the nation from finding sustainable solutions to the problems that beset the poorer countries of the world.

Throughout the long twentieth century, aspirations for socialism were, in so many different corners of the world, frustrated. Frequently, they were derailed by powerful leaders who insisted that they “know best,” but who mistook their own political glory for their country’s welfare. The lure of egalitarianism remains powerful, all the more so in Latin America, the most inequitable region of the world. Yet in the absence of a cogent economic strategy, something truly persuasive, men like Chávez, Correa, and Morales just look like the latest and most fashionable incarnation of dictatorship.

What is novel about these three is their command of the law. All three leaders have benefited from the quiet help of a team of Spanish legal scholars led by Roberto Viciano Pastor, a constitutional law professor at the University of Valencia. He and his colleagues had a hand in the similarities of the three constitutions—an emphasis on “re-founding” to correct historical injustices, a focus on public policy and spending for the poor, and—most controversial—a strengthening of presidential power. Viciano may have noble intentions, but there are many historical examples of the dangers of entrusting power to a single individual.

The unraveling of democracy, cloaked as it is in legal garb, suggests that one can’t define a government solely by the means through which it entered office. Elections do matter, but rulers who use the law to undermine the “rule of law,” impinge on human rights, persecute their opposition, and govern capriciously and recklessly forfeit their claim to being democrats. Democracy is more than a regime type; it is an ongoing practice. The majority of today does not have the right to overrule or overpower the majority of tomorrow. By wrecking democratic institutions, presidents like Chávez, Correa, and Morales are not only subverting the rights of their opponents, they are also leaving tomorrow’s majority without a voice.

Back in Honduras, the leaders of the coup d’état waited out international opprobrium and Zelaya’s complaints. Elections were held in November 2009. One assumes that the new president, Porfirio Lobo, has learned a lesson in democracy from the fate of his predecessor.

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