



**PRESIDENTIAL COUPS D'ÉTAT AND REGIME CHANGE
IN LATIN AMERICAN AND SOVIET SUCCESSOR STATES:
Lessons for Democratic Theory**

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Working Paper #249 – February 1998

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The visiting fellowship at the Institute enabled the author to embark on this study. Guillermo O'Donnell's seminar on Democratic Theory provided an ideal context to work through the ideas in this paper, and the author is grateful for his encouragement and criticism. Michael Coppedge, Martha Merritt, Fen Hampson, and David Long made keen and useful comments. This paper was presented in the Pontificia Universidad Católica del Perú, Lima, 26 March 1997, and benefited from the observations of two discussants, Guillermo Rochabrún and Eduardo Hernando Nieto. Funding was provided by a research grant from the Social Sciences and Humanities Research Council of Canada and a Carleton University research achievement award. The author is exclusively responsible for the content of the paper.

Abstract

What safeguards democracy when the *demos* allows its own voice to be silenced? In Latin American and Soviet successor states this problem took a novel form in the 1990s: that of the self-inflicted presidential coup d'état, or *autogolpe*. In Peru, Guatemala, and Russia presidents closed congress, suspended the constitution, and sought to rule by decree until referenda or new legislative elections could be held to ratify a regime with broader executive powers. Three contrasting traditions of democratic theory are assessed in light of autogolpes: electoral, liberal, and deliberative democracy. Each offers a different lesson on the implications of autogolpes for electoral competition and parties, legislative-executive relations, the independence of the judiciary and the rule of law, civil-military relations, and the powers of the presidency. Based on this assessment, the paper concludes that more scholarly attention must be given to the quality of democracy, its institutional diversity, and the complex connections among different attributes of democratic regimes.

Resumen

Qué resguarda a la democracia cuando el *demos* permite que su propia voz sea silenciada? En América Latina y en los estados sucesores de la Unión Soviética este problema tomó nueva forma en los años '90: el golpe de estado presidencial auto-infligido, o *autogolpe*. En Perú, Guatemala y Rusia, los presidentes clausuraron el congreso, suspendieron la constitución y buscaron gobernar por decreto hasta que pudieran celebrarse referenda o nuevas elecciones legislativas para ratificar un régimen con más amplios poderes ejecutivos. Se evalúan tres tradiciones contrastante de teoría democrática a la luz de los autogolpes: democracia electoral, liberal y deliberativa. Cada una de ellas ofrece una enseñanza diferente acerca de las consecuencias de los autogolpes para la competencia electoral y los partidos, las relaciones entre el ejecutivo y el legislativo, la independencia del poder judicial y el estado de derecho, las relaciones entre civiles y militares, y los poderes de la presidencia. Basado en esta evaluación, este artículo concluye que debe prestarse mayor atención a la calidad de la democracia, a su diversidad institucional, y a las conexiones complejas entre los diferentes atributos de los regímenes democráticos.

I. *Autogolpes*: Democracy without the *Demos*¹

The word democracy denotes a type of political rule—etymologically, the rule of the *demos* (or ‘the people’). It connotes that the people are both rulers and subjects and thus form a self-governing political community. Does this ideal represent a meaningful goal for the democracies that have emerged in Latin America and the Soviet successor states in recent years? This question, which is central to democratic theory and comparative politics, is at once empirical and philosophical. The philosophical problem is whether or not the idea of a self-governing political community means anything; the empirical problem is whether or not the idea is achievable in practice.

What democracy is cannot be evaluated without reference to what it should be (Sartori 1962, 4–5). Persistent gaps between democratic theory and practice invite us to undertake a critical examination of actual practices, coupled with a reassessment of normative standards. Such a task is overdue for many of the new democracies that have spread throughout Latin America since the 1970s, as well as those founded after 1989 in the states of the former Soviet Union, many of which “bear a family resemblance to the old established democracies, but either lack or only precariously possess some of their key attributes” (O’Donnell 1996a, 34).

Democracy has become the most desired form of political rule because it represents political freedom to millions of people who have lived under the weight of authoritarian or totalitarian regimes. The task of democratic theorists, from Thomas Hobbes and Jean-Jacques Rousseau to Jürgen Habermas and John Rawls, has been to show how political freedom—the reconciliation of consent and obligation among citizens of a polity—can be achieved through the processes, institutions, and practices of democratic rule. Do such theories speak to the experience of citizens in ‘Third Wave’ democracies, many of whom may be more interested in the effective performance of the political system than its normative underpinnings? If not, what are the lessons for democratic theory (Dahl 1994)?

Behind such questions lurks a fear that has agitated democratic theorists from classical antiquity to the present: that the *demos* may be undemocratic, may prefer undemocratic rule, or may be indifferent to democracy. What safeguards democracy when the *demos* allows its own voice to be silenced? In Latin American and Soviet

¹ This concept, used by Sheldon S. Wolin (1996a, 34) to describe constitutional democracy, applies with greater force to unconstitutional democracy.

successor states this problem took a novel form in the 1990s: that of the self-inflicted presidential coup d'état, or *autogolpe*. In diverse countries—including Peru, Guatemala, Russia, Kazakhstan, and Belarus—presidents closed congress, suspended articles of the constitution, and sought to rule by decree until referenda or new congressional elections were held to ratify a system with broader executive powers. In a surprisingly large number of these cases, such 'self-coups' have been highly popular, resulting in successful constitutional referenda and presidential reelections.

The ambivalence among democratic theorists writing about these cases is epitomized by Samuel Huntington's remark about the 1992 *autogolpe* by Peruvian President Fujimori: "Immediately after Fujimori's coup, Secretary of State James Baker publicly attacked it, saying 'You can't save democracy by destroying it.' But perhaps Fujimori did precisely that" (1995, 10). Huntington's comment, and much of the recent literature on 'Third Wave' democracies (Diamond and Plattner 1993; Linz and Stepan 1996a, 1996b; O'Donnell 1995, 1996a, 1996b), focuses our attention on troubling questions about the meaning and importance of democracy, as well as the variety and quality of democratic institutions.

Assessments of the quality of democracy depend upon definitions of democracy. In this paper, *autogolpes* are examined in the light of three contrasting traditions of democratic theory: electoral, liberal, and deliberative democracy. If democracy is defined as a set of rules that allow instrumentally motivated actors to achieve cooperation in an institutionalized competitive struggle for power, then the violation of these rules will undermine cooperation and upset political order. If democracy provides protection to minorities and individuals against the abusive exercise of power, the suspension of such guarantees may unleash the persecution of opposition and minority groups in the name of the majority. If democracy is defined as a system of governance in which those in power offer public reasons for their actions and defend these against criticism, then secretive and deceptive uses of power by public officials destroy the deliberative character of democratic institutions.

In the next section, each school of democratic theory is examined to determine its definition of democracy, the underlying problem at stake, the logic of argumentation, and the implications for empirical analysis. We then turn to a description of *autogolpes* in the major cases since 1992. Finally, the theories and cases are brought together in an effort to assess a wide spectrum of issues and problems associated with *autogolpes* in the light cast by each school of thought.

II. Theories

As a first approximation it may be useful to think of theories of democracy as points arrayed on a continuum which runs from minimalist to maximalist. Minimalist theories (for example, electoral democracy) ‘travel further’ and, by reducing the number of attributes of democracy, expand the number of cases available for analysis—but at the cost of depth and complexity. Maximalist theories (deliberative democracy, for instance) allow us to see more dimensions of democracy in a more limited set of cases.

In a second dimension of the continuum the theories are arrayed along a positive/ normative axis. Positive theories adopt an empiricist epistemology and strive to separate facts and values. Normative theories emphasize the relation between facts and values and rest on an interpretive epistemology. The theories of democracy can be located in a space representing the intersection of these dimensions: electoral democracy is located in the minimalist-positive corner; deliberative democracy is in the normative-interpretive corner; and liberal democracy stands at the fulcrum of these intersecting continua, emphasizing *Verstehen* and the role of norms, while seeking to separate facts and values in the observer’s analysis. These schools are neither mutually exclusive nor exhaustive, and many definitions of democracy (see for example, Schmitter and Karl 1993) combine elements of each. The spatial metaphor is simply intended to highlight both continuity and difference across theoretical traditions.

1. Electoral Democracy

Theories of electoral democracy have their roots in the classical work of Max Weber (1968), Joseph Schumpeter (1975), and Anthony Downs (1957), but the most elegant recent expression is found in Adam Przeworski’s *Democracy and the Market*. According to Przeworski (1991, 10), democracy is “a system in which parties lose elections. There are parties, there is competition organized by rules, there are winners and losers.” This definition highlights two of democracy’s “quintessential features: outcomes are uncertain, and it is the people, political forces, who determine these outcomes” (Przeworski 1991, 10). There are different types of democratic institutions, but they all involve one sufficient condition: “contestation open to participation” (Przeworski 1991, 10). This definition of democracy owes a substantial debt to Robert Dahl’s ‘polyarchy’ (1971, 1–9).

Subsequently, Przeworski and his collaborators have refined this definition, calling a democracy any “regime in which governmental offices are filled as a consequence of contested elections. Only if the opposition is allowed to compete, win, and assume office is a regime democratic.” Two kinds of offices must be filled by elections: the chief executive office and the seats in the effective legislative body. Contestation to fill these offices must involve three features: *ex ante* uncertainty, *ex post* irreversibility, and repeatability (Przeworski, Alvarez, Cheibub, Limongi 1996, 50).² These features of democratic institutions lend an intertemporal character to political conflicts; they offer an extended time horizon to actors (Przeworski 1991, 19) and, by so doing, create new possibilities for cooperation. Citing Linz, Przeworski calls democracy government *pro tempore*. Conflicts are temporarily, not definitively, terminated: successful democracies “are those in which the institutions make it difficult to fortify a temporary advantage” (Przeworski 1991, 36).

The main value of democracy is that it is “a system for processing conflicts without killing one another; it is a system in which there are differences, conflicts, winners and losers” (Przeworski 1991, 95). Possibilities for cooperation emerge not only out of the longer time horizon of the actors but also from the fact that no single force controls events. Outcomes are uncertain in the sense that they cannot be known *ex ante*, and knowledge is therefore inescapably local. Open-endedness and uncertainty constitute a positive attribute of democracy, for actors are drawn by uncertainty into the play of democracy’s forces (Przeworski 1991, 13).

The logic of the electoral school rests on a strategic view of rationality. Game theory “proscribes outcomes that would be supported by something other than a strategic pursuit of interests” (Przeworski 1991, 24). A stable democracy represents a political equilibrium when it becomes “the only game in town, when no one can imagine acting outside the democratic institutions, when all the losers want to do is to try again within the same institutions under which they have just lost” (Przeworski 1991, 26). It is stable, not because of a presumption that the actors are normatively committed to democracy, nor because it is externally imposed, but because it is self-enforcing.

² Although minimalist, this perspective is not ‘electoralist,’ if by that term we mean characterized by the fallacy of identifying a country as democratic on the basis of sham or showcase elections. Electoral democracy is defined precisely in such a way as to exclude such elections and distinguish between democratization and liberalization (Przeworski, Alvarez, Cheibub, and Limongi 1996).

Strategies that undermine the self-enforcing capacity of democracy include those that “seek to alter *ex post* the outcomes of the democratic process” or “drastically reduce the confidence of other actors in democratic institutions” (Przeworski 1991, 28). This is likely to occur only when players have outside options (Przeworski 1991, 31). Therefore, compliance and participation rest on the capacity of democracy to generate substantive outcomes: “It must offer all the relevant political forces real opportunities to improve their material welfare” (Przeworski 1991, 32). Such outcomes should not, of course, be considered a definitional feature of democracy.

Many attributes frequently associated with democracy—responsiveness, accountability, broad participation—are excluded from the definition of electoral democracy. This is done deliberately in order to focus empirical analysis on the relationship between these important aspects of political performance and elections (Alvarez et al. 1996, 20). Electoral democrats insist that “from an analytical point of view, lumping all good things together is of little use” (Alvarez et al. 1996, 20). Thus, for example, certain rights are considered a definitional feature of democracy, but democracy does not necessarily furnish the conditions for the exercise of these rights. Definitional minimalism enables Przeworski and his collaborators to reject the idea of ‘intermediate cases.’ They argue that “if we cannot classify some cases given our rules, all this means is that either we have bad rules or we have insufficient information to apply them... Errors are errors, not ‘intermediate’ categories” (Alvarez et al. 1996, 23, 24).

2. Liberal Democracy

Liberal democrats accept the centrality of elections, but they do not believe that they are a sufficient condition for democracy. For liberals, the electoral school is not wrong but insufficiently attentive to what occurs between elections. Juan J. Linz defines a political system as “democratic when it allows the free formulation of political preferences, through the use of basic freedoms of association, information, and communication, for the purpose of free competition between leaders to validate at regular intervals by nonviolent means their claim to rule; a democratic system does this without excluding any effective political office from that competition or prohibiting any members of the political community from expressing their preference by norms requiring the use of force to enforce them.” Thus, while accepting the essence of the electoral view, Linz adds that “liberal political rights” are a requirement for “public contestation and competition for power” (Linz 1975, 182–83).

Linz and Stepan (1996b, 15) argue that “...no regime should be called a democracy unless its rulers govern democratically.” “If freely elected executives (no matter what the magnitude of their majority) infringe the constitution, violate the rights of individuals and minorities, impinge on the legitimate functions of the legislature, and thus fail to rule within the bounds of a state of law, their regimes are not democracies” (Linz and Stepan 1996b, 15). In this view, elected governments must have the authority to implement policies without sharing power with other bodies (Linz and Stepan 1996a, 3), and no *de jure* or *de facto* power should rest in an interlocking system of reserve domains, special military prerogatives, or authoritarian enclaves (Linz and Stepan 1996b, 14–15). Nondemocratic regimes leave rulers with wide discretionary powers and restrict the role of independent objective bodies (Linz 1975, 183).

The underlying logic in the liberal view is brilliantly articulated by Giovanni Sartori, who notes that the etymology of ‘democracy’ is ambiguous because the *demos* can be taken to mean many different things. The idea that it means “the right of a majority to absolute rule” is mistaken because “the absolute right of the majority to impose its will on the minority, or minorities, amounts to establishing a working rule that works, in the longer run, against the very principle that it extols” (Sartori 1987, 24). He argues instead that the “limited majority principle turns out to be *the* democratic working principle of democracy” (Sartori 1987, 25).

For this reason, liberal democracy goes beyond electoral democracy in two ways. First, the establishment of liberal rights helps guarantee the free formation of wills before elections. As Sartori puts it, “free elections with unfree opinion express nothing” (1987, 102). Second, liberals wish to avoid a loss of freedom after elections for, as Sartori states, “He who delegates his power can also lose it; elections are not necessarily free; and representation is not necessarily genuine” (Sartori 1987, 30–31). Liberal democrats cannot avoid taking this question seriously: “How do we maintain and firm up the link between the nominal attribution and actual exercise of power?” (Sartori 1987, 30).

Thus, liberal democracy brings us back to the matter of whether or not the people can be self-governing. To live freely in society means, negatively, to be free from external constraint and, positively, to have the power and autonomy to pursue one’s own will. A democratic political system is one that is consistent with two principles: individuals should be autonomous, in the sense of knowing their own wills and pursuing these freely, and citizens should be free from external constraints

other than those to which they freely submit. Any political system constructed on the basis of thorough respect for these principles will resemble a liberal democracy.

In order to restrain the abusive use of power, to “check the state’s illegal tendencies” (Linz and Stepan 1996b, 19), and protect the rights and freedoms of individuals and minorities, liberal democratic regimes require a particular type of state: the *Rechtsstaat* or the constitutional state based on the rule of law. Citizens cannot effectively have their rights protected in the absence of the rule of law, and the latter requires an effective state. The idea that all civil and political actors must become habituated and accountable to the rule of law, animated by a spirit of constitutionalism, creates a tension between constitutionalism and majoritarianism (Linz and Stepan 1996b, 19). This tension is resolved only insofar as there is a strong consensus regarding the constitution.

Without the rule of law, citizens cannot autonomously exercise their political rights (Linz and Stepan 1996b, 19). Guillermo O’Donnell argues that in the absence of the rule of law, a universalist legal system, and social conditions supportive of citizenship, “We face a new monster: democracies without effective citizenship for large sections of the political community” (in Przeworski et al. 1995, 34).

Political opposition is another essential feature of liberal democracy, since the majority cannot pretend to speak for the entire *demos*. “In democracies the opposition is an organ of popular sovereignty just as vital as the government,” says Guglielmo Ferraro: “To suppress the opposition is to suppress the sovereignty of the people” (cited in Sartori 1987, 32).

Bruce Ackerman makes a similar case for the separation of powers: no branch of government can claim to speak unequivocally for the *demos* (Ackerman 1988, 170). The separation of powers ensures that “the principle of freedom has an organizational guarantee” (Slagstad 1988, 104). The union of the executive, legislature, and judiciary amounts to dictatorship since there would be little recourse for the individual citizen to protect her rights against such a state. With the division of powers, the “assembly embodies popular participation; the Supreme Court embodies constitutional constraints; and the executive embodies the need for action” (Elster 1988, 4).

In practical terms, liberal democrats place great importance on the presence of a strong legal culture in civil society, understood to include the following: respect for supreme court decisions and judicial review, an understanding that laws should be general, an acceptance of hierarchy among the constitution, statutes, and administrative decrees, and effective entrenchment of the constitution (a situation in

which only exceptional majorities can change the constitution). Such a culture is difficult to develop when constitutions are changed frequently, when laws that have no roots in social habits and customs are passed, or when statutes are written with the interests of particular groups or individuals in mind.

The legalism of liberal constitutionalists is in tension with democratic majoritarianism. Liberals believe that certain procedures and norms must be placed beyond the reach of the *demos*. John Rawls's notion of "overlapping consensus" provides a recent example of this sort of thinking.³ For this reason, it has often been commented that "liberalism has historically provided both a necessary platform for democracy and a constraint upon it" (Beetham 1993, 56). Put differently, demands for liberal rights and freedoms often overshadow the concern for democracy itself. Liberals see liberalism as so tightly bound up with the development of democracy, and as so essential to its survival, that the erosion of liberal rights and freedoms implies an almost inevitable step toward the loss of democracy. Moreover, electoral democracies exist all over the world, but liberal societies are exceptional. Liberal theorists do not, however, confine their attention to liberal democracies, nor do they define democracy dichotomously. Linz and Stepan, to take one example, talk of 'pseudodemocracies' and 'hybrid democracies' where democratic and nondemocratic institutions coexist.

3. Deliberative Democracy

Deliberative democracy represents one of the most promising recent developments in democratic theory. Jürgen Habermas (1996a, 1996b) has inspired much of this work (see Chambers 1996; Bohman 1996), which has also spread into legal theory (Santiago Nino 1996) and policy analysis (Dryzek 1990, 1996). However, this school has additional roots in Anglo-American philosophy (Dewey 1988; Gutmann and Thompson 1996), public policy analysis (Reich 1988), and political theory (Barber 1996; Benhabib 1996).

From a deliberative perspective, democracy is a system of governance in which those exercising power offer public reasons for their actions and defend these against criticism. As Gutmann and Thompson put it, "the forums in which we conduct our political discussion should be designed so as to encourage officials to justify their actions with moral reasons, and to give other officials as well as citizens the

³ Rawls's liberal theory of democracy emphasizes deliberative rationality but limits deliberation to areas that are nonthreatening to the liberal democratic state. For the purpose of argument, I classify him as a liberal rather than deliberative theorist.

opportunity to criticize those reasons” (Gutmann and Thompson 1996, 91). Similarly, for Seyla Benhabib, democracy is “a model for organizing the collective and public exercise of power in the major institutions of society on the basis of the principle that decisions affecting the well-being of a collectivity can be viewed as the outcome of a procedure of free and reasoned deliberation among individuals considered as moral and political equals” (Benhabib 1996, 68). In the words of Carlos Santiago Nino (1996, 118), “democracy can be defined as a process of moral discussion with a time limit.”

Those in power offer public *reasons* for their actions because they wish to secure the agreement of those affected. Since no one has the inherent right to command another, subjects can only be expected to obey their own disinterested reason. Obedience to authority is a violation of the citizen’s autonomy unless it is reasonable to believe that such agreement could be freely given. In this way, deliberative theories are profoundly liberal and—in both German and Anglo-American versions—Kantian. Reasons must be *public* because only reasons that are general enough to warrant a hearing among all citizens without exclusion are consistent with the freedom of all concerned. The publicity principle “encourages officials to give reasons for their decisions and policies and to respond to challenges to those reasons from citizens” (Gutmann and Thompson 1996, 114). This rules out the distortion of the public sphere that occurs when public power is placed at the service of private interests. Reasons must be defended against *criticism* to ensure that there is accountability on the part of the powerful to those on whose behalf they claim to govern.

That citizens should “retain their power of judgment about public matters” has become “the central proposition of deliberative theories of democracy, wherein the point is to increase the quality of democratic judgments through widespread citizen participation in multiple public spheres” (Warren 1996, 46). Deliberative democrats accept the basic principles of liberal democracy, in particular, the autonomy of the individual and what Habermas calls ‘post-traditional values’ (which imply a loss of certainty in transcendent truths). They want to “radicalize rather than replace the current mixes of majoritarian processes, rights, and deliberative procedures that exist in contemporary liberal democracies” so that institutions “produce judgments by deliberative means, rather than as an outcome of competing interests and powers” (Warren 1996, 46). Whereas the electoral school addresses the problem of cooperation, the deliberative school is concerned with the conditions for reaching agreement in the context of problems such as deliberative disagreement (Gutmann

and Thompson 1996), reasonable pluralism (Chambers 1996), and multiculturalism (Bohman 1996; Habermas 1996b); for these are problems that cast doubt on our ability to resolve differences discursively.

Theories of deliberative democracy aim at “elucidating the already implicit principles and logic of existing democratic practices” (Benhabib 1996, 84). A discursive understanding of democracy does not commit the author to any specific institutional design but provides a basis for tracing the norms and principles that give coherence and meaning to a particular set of arrangements. Argentine legal theorist Carlos Santiago Nino states the problem with uncommon clarity: “there are no distinctive institutions of democracy outside of a value-laden theory that simply justifies a set of options. We cannot identify institutions commonly understood as democratic and work out a method for stabilizing them without systematically bringing to the fore the moral theory that justifies them. Simply put, reality does not tell us which institutions are essential and which are contingent in relation to a normative concept like that of democracy” (Santiago Nino 1996, 9). If, as Sartori notes, “what democracy is cannot be separated from what democracy should be,” then the analysis of democracy requires an “interpretive attitude,” according to Santiago Nino (1996, 8–9; see Sartori 1962, 4–5).

All deliberative democrats concur that elections are not the only aspect of democracy: “The electoral verdict itself, or even the campaign, should not carry the full burden of reason-giving communication in the political process” (Gutmann and Thompson 1996, 130). It is necessary to analyze an ensemble of institutions and practices extending beyond elections. Public spaces in civil society provide opportunities for deliberation outside of governmental institutions.

The various branches of government observable in all constitutional democracies correspond to different logics of argumentation, and their separation is necessitated by these discourses. The parliament is the chief deliberative body, and it operates within the parameters of public opinion. Yet it has little administrative power: it cannot declare war nor jail individuals. At best, it can subpoena witnesses or call prominent public officials before hearings. The weakness of parliament as an administrative body ensures that its deliberations are insulated from the temptations of power and oriented toward the production of general laws for the public good, not the promotion of particular groups or individual interests. Above all, the legislature must oversee the activities of the other branches of government to ensure that they act within the framework of the rule of law. This ensures that the exercise of power

by the other branches of government remains consistent with the will of the public as expressed by the laws.

The fundamental purpose of the separation of powers is to bind the exercise of administrative power to the communicative power generated by citizens acting in common. The executive administers policies consistent with parliamentary law. It represents the need for action within the framework of the rule of law. The failure of parliament to oversee the actions of the executive enables the president to act with secrecy and free himself from accountability. For that reason, the legislature and executive must be separated.

Equally important is the separation of power between the legislative and judicial branches. The role of the judiciary is to enforce the laws, not make them. The style of argumentation in the courts is different from that of legislative bodies, with good reason. The fact that judges can deny citizens their most basic liberties requires that the rules and procedures for doing so be established not by the judges themselves but by the parliament as a disinterested body that represents the collective deliberative power of the political community acting in concert. The power of the courts is always vicarious, even (or especially) in the thorniest cases of judicial review.

III. Cases

An *autogolpe* may be defined as “a temporary suspension of constitutional guarantees and closure of Congress by the executive, which rules by decree and uses referenda and new legislative elections to ratify a regime with broader executive powers” (Cameron 1994, 148). There have been three *autogolpes* during the 1990s, two of which were successful, at least insofar as the president was reelected. A brief description of each of the cases will bring to light the issues that must be addressed by democratic theory if the question posed in the introduction is to be answered: Is democracy a meaningful and practical goal for Latin American and Soviet successor states?

Peru

Alberto Fujimori came to power in 1990 in a run-off election. He failed to secure control over Congress and, over time, relations between the president and the congressional leadership deteriorated. Fujimori inherited a severe economic crisis and a major insurrectionary challenge. The former required socially costly

stabilization measures; the latter required a tough counterinsurgency strategy. On 5 April 1992 Fujimori closed Congress, suspended the constitution, fired the nation's top judges, and declared emergency rule. The military offered institutional support, and the public rallied behind the executive. However, under pressure from the international community, the President agreed to new congressional elections in November 1992. The new Congress drafted a new constitution with expanded executive powers that was submitted to referendum in 1993. Fujimori was reelected in 1995. In justifying his *autogolpe*, Fujimori said: "On that day, 5 April 1992, I faced a predicament: either Peru continued walking, quickly heading into the abyss of anarchy and chaos, pushed by terrorism and before the passiveness of the state organization, or I took the risk of providing the state with the necessary instruments for putting an end to that threat" (Fujimori 1995, 438–49).⁴

Guatemala

Jorge Serrano also came to power after a 1990 run-off election. He, too, failed to secure control over Congress, and relations between the executive and the legislature deteriorated over time. The President used his discretionary spending power to build congressional support, a strategy that backfired as legislators began to blackmail the president with threats of impeachment unless he conceded to increasingly extravagant demands. On 25 May 1993, following the Peruvian model, the President closed Congress, suspended articles of the constitution, declared emergency rule, and immediately called new elections. However, the constitutional court challenged the legality of the *autogolpe*, the electoral board refused to call new elections, the military divided, civil society rallied against the government, and international pressure mounted. After a week of complex negotiations, the nation's human rights ombudsman emerged as the interim president, and Serrano went into exile, where—surrounded by the evidence of considerable illicit wealth—he had little to say in justification of his actions.⁵

Russia

Boris Yeltsin came to power in 1991 in Russia's first presidential elections, which were held after the 1989 election of a Supreme Soviet of the USSR (controlled by Gorbachev) and 1990 elections for legislatures for the union republics

⁴ On the Peruvian *autogolpe*, see Abad Yupanqui and Garcés Peralta (1993), Balbi (1997), Cameron (1994, 1997), Kenney (1996), Mauceri (1995), and McClintock (1996).

(including Russia). After the August 1991 coup attempt, Yeltsin dismantled the Soviet Union and the Soviet Communist Party but did not immediately call legislative elections. Parliamentarians who stood with Yeltsin against the coup rose to leadership positions in the Russian Supreme Soviet. Between 1992 and 1993, however, a power struggle broke out between the executive and the parliament. Yeltsin's hand was strengthened by support displayed in a referendum held on 25 April 1993. On 21 September 1993 he dissolved the parliament, suspended the Supreme Court, and called for early elections and a referendum on a new constitution. Resistance by the parliament led to the shelling of the 'White House' on the morning of October 4 and the detention of the rebel leadership. A referendum on 12 December 1993, ratified a new constitution with expanded executive powers; simultaneously, elections were held for the newly created parliament, composed of a Federal Assembly and a State Duma. In 1996, President Yeltsin was reelected. In his memoir, Yeltsin argued: "I was faced with a serious choice... Either the president would become a nominal figurehead, and power would be transferred to the parliament or he would have to take some measures to destroy the existing imbalance of power" (Yeltsin 1994, 205).⁶

Other Similar Cases

Two other cases share a family resemblance with *autogolpes*, but they quickly degenerated into dictatorships.⁷ Nursultan Nazarbaev, communist party leader before the dissolution of the Soviet Union, was unopposedly elected President of Kazakhstan in December 1991. Kazakhstan's parliament had been elected earlier, in 1990, and was composed almost entirely of communists. In December 1993, following Yeltsin's crackdown in Moscow, Nazarbaev called upon parliament to dissolve itself so that new elections could be held in March 1994. Irregularities in these elections led the Constitutional Court to declare the elections void, and the President, frustrated with continuing opposition to his policies, upheld the court's decision. He then called a referendum on 29 April 1995 in order to extend his tenure in office to the year 2001 and wrote a new constitution that expanded the power of the executive. New legislative elections were held in December 1995. "It is true that I am a champion of strong presidential power in

⁵ On the Guatemalan *autogolpe*, see Cameron (1994) and Poitevin (1993).

⁶ On Yeltsin's crackdown on parliament, see Brudny (1995), Colton (1995), Fish (1995), Shevtsova (1994), Tucker (1995), and Yeltsin (1994).

⁷ On Kazakhstan, see Bremmer and Welt (1995, 1996), Dave (1996), Olcott (1995), and Pannier (1995, 1996); on Belarus, see Markus (1996).

states that are enduring a transition period,” said Nazarbaev. “When social and economic systems undergo profound transformation, marking time is unacceptable” (Nazarbaev 1996, 63).

Alexander Lukashenko won a landslide victory in Belarus in July 1994 elections on a ticket to clean up corruption and pursue integration with Russia. Legislative elections the next year—which were disrupted by the executive—resulted in a parliamentary majority opposed to the president. However, the president simply ignored the actions of legislators, routinely violated the nation’s laws, and defied decisions by the constitutional court. Efforts by the legislature to impeach the president followed the calling of a November 1996 referendum on an expansion of executive powers; proposed measures included the creation of a new upper house of parliament with a number of members appointed by the executive, the granting of power to the president to appoint half the members of the constitutional court and electoral commission, and the extension of the president’s term in office through 2001. The constitutional reforms passed with 70.5 percent support. Members of the legislature who accepted the result subsequently became members of the new National Assembly. A Russian official commented: “Whatever you may think about Lukashenko, at least there is law and order in this country. And that’s what counts more these days than notions of democratic freedom people now use to justify their lust for power” (Schmetzer 1996, 3).

Autogolpes end with the restoration of polyarchy. This is not the case in Kazakhstan and Belarus, where the process ended in dictatorship. The justifications offered by Nazarbaev and Lukashenko can easily be dismissed by democratic theorists; in the case of the *autogolpes*, this is not so. Therefore, only passing reference is made in the following sections to the events leading to dictatorships in Kazakhstan and Belarus. The main focus is on Peru, Russia, and Guatemala.

IV. Issues

In the recent cases of *autogolpes*, antidemocratic measures have been justified by the failures of existing democracy, legislative obstructionism, judicial corruption or politicization, the perception of security threats, and diminishing public confidence in state institutions. Critics argue that *autogolpes* lead to centralization of power in the hands of the executive, subordination of the legislature to the executive, erosion of civilian control over the military, and the creation of regimes

insulated from criticism. Both advocates and critics of *autogolpes* offer serious arguments that deserve the attention of democratic theorists. Which of the three schools of democratic theory best enables us to assess these contrasting arguments?

As we move from immediate justifications to the longer-term consequences of *autogolpes*, we shift from those issues in which electoral democracy is strongest, through those that liberal democrats address best, to those regarding which deliberative democracy provides the greatest insight. Electoral democracy is most useful for assessing the implications of *autogolpes* for party competition and elections. Liberal democracy provides a better understanding of institutional issues concerning the separation of powers and civilian supremacy over the military. Deliberative democracy provides the best account of legitimation problems created by the violation of underlying norms inherent in a particular set of institutions. We will also examine how each school reinforces or undermines the others.

1. Elections and Parties

The main justification proffered for *autogolpes* is that they do not destroy democracy but create a more real democracy. They aim at reforming corrupt and unworkable institutions that are widely hated by the public yet difficult to change within the existing ‘rules of the game.’ Sometimes, as Linz and Stepan observe, the democratic rules, even those enacted by a majority, “are so unfair or poorly crafted and so difficult to change democratically that they are unacceptable to a large number of citizens” (1996b, 19). Under such conditions, violation of democratic rules may be consistent with the long-term stability of democracy—indeed, it may be necessary. This assertion rests on the characterizations offered of pre- and post-*autogolpe* regimes, which in turn raise the problem of defining democracy. It should therefore be possible to assess the argument for *autogolpes* in the light of alternative schools of democratic theory.

For electoral democrats, an *autogolpe* is clear evidence that democracy is out of equilibrium (Cameron 1994, 145–46); an *autogolpe* cannot be said to represent an equilibrium of the decentralized strategies of the relevant political forces, some of which tacitly or overtly promoted violation of the democratic rules of the game. Electoral democracy also provides a precise understanding of those attributes of democracy violated by *autogolpes*, along with an unambiguous classification and periodization of the cases. Not all of the countries that have experienced *autogolpes* have subsequently achieved the minimum standards for classification as

a democracy. Electoral democracy enables the observer to identify these periods during which given countries can be classified as polyarchies.

There were great differences between the Latin American and Soviet successor states in terms of levels of democratization at the time of their respective *autogolpes*. Whereas both Peru and Guatemala were electoral democracies in 1990, such was not the case in the Soviet Union and its satellite republics. A better case can be made that Russia, Kazakhstan, and Belarus were not democracies in 1990, for there was no democratic party competition in the legislative elections that led to the creation of the legislatures in these countries in 1990. Attacks on communist-dominated institutions (parties and assemblies) were more easily reconciled with the goal of democratization.

In Peru and Guatemala political parties had previous contested free elections; Peru may be considered an electoral democracy since 1980, and Guatemala may be considered so since 1985. Indeed, Peru may be characterized as an emerging liberal democracy between 1980 and 1992, whereas Guatemala was something of a 'showcase' democracy. Despite their differences, both countries faced a problem common to many Latin American democracies: not that the legislatures were relics from the authoritarian past but that they did not offer a legislative majority to the president. Institutional design—specifically, a system of run-off elections—made it possible

for a second-placed candidate in first-round presidential elections to achieve executive power without control over congress.

Even if we accept that the preexisting regime was not democratic, as in the case of the Soviet successor states, *autogolpes* nevertheless alter electoral outcomes *ex post*, thereby violating the 'ex post irreversibility' rule (that is, 'whoever wins elections will be allowed to assume office'). Countries experiencing *autogolpes* can therefore be classified as undemocratic for the period of time during which elected assemblies are eliminated, and they cannot be considered democracies until new, fully competitive legislative elections have been held. Thus, Russia, Peru, and Guatemala may be considered electoral democracies as of 1996,⁸ 1995, and 1996 respectively, because by those dates they had met the condition of competitive legislative and presidential elections. Indeed, Russia cannot be considered an electoral democracy prior to that date due to the fact that it had not held fully competitive legislative elections. As of 1997 Belarus remained a

⁸ Yeltsin was elected president of Russia (rather than the Soviet Union) in 1996. Proper legislative elections were held (in most parts of the country) in 1995.

dictatorship with an elected president, and Kazakhstan, a more difficult case to classify, should probably be scored closer to Belarus than Russia.

Electoral democrats assess *autogolpes* in the light of whether actors lose faith in democracy and adopt nondemocratic means of political struggle. For example, will the president use his (or her) temporary power to consolidate a more permanent dictatorship? Political parties hold the key to this problem: The most dangerous legacy of *autogolpes* may be that they undermine confidence in the rules of contestation among parties as a means for resolving political conflicts. When *autogolpes* are used to weaken parties, they attack the essence of electoral democracy.

In the aftermath of *autogolpes* the fortune of opposition parties is typically not good. Only in Guatemala, where the *autogolpe* failed, was the party system strengthened and a government elected with a solid party base. Everywhere else, the results were polarization, disappearance of parties, or repression. The Peruvian *autogolpe* was part of a largely successful effort to debilitate the Peruvian party system, which Fujimori inaccurately called a “partyarchy.”⁹ Fujimori argued that “political parties can destroy democracy” and he went on to insist that “in Peru the political parties monopolize the electoral process, dominate the legislative process, and penetrate all the politically relevant organizations to such an extent that the spirit of democracy is violated, politicizing the society according to their doctrines...” (cited in Cameron 1994, 150–51). These insistent attacks on political parties by the executive are one of the many factors that explain the virtual collapse of the Peruvian party system after 1992 (see Cameron 1994).

Russia provides an example of the polarization and weakening of the political center caused by an *autogolpe*. Ironically, the election of the new Duma and Federal Assembly in 1994 weakened the forces of Russian liberalism, which had supported Yeltsin, and thus weakened the president himself (Shevtsova 1994, 326). This tendency was further accentuated by the further erosion of the political center in subsequent elections. In Belarus opposition parties were targets of persecution and repression. Kazakhstan has been described as having “elections devoid of a party system” (Dave 1996, 34). Yet it is important to be sensitive to the fact that none of these Soviet successor states had democratic party systems before the collapse of Communism.

⁹ Fujimori’s speech was based on an unattributed misreading of a doctoral dissertation on Venezuela by Michael Coppedge (1994). See Kenney (1996, 103–4).

Another way in which parties are weakened is by the replacement of mechanisms of representation with those of direct democracy. Fujimori used a “National Dialogue for Peace and Development” to permit the direct input of various ‘social sectors’ into the policy process, thereby bypassing the nation’s political parties (Abad Yupanqui and Garcés Peralta 1993, 162–64). Belarus provides a good example of the aggressive use of referenda to undermine representative institutions. “Whoever does not want” the 1996 referendum, said Lukashenko, “will have to find another motherland.”¹⁰ Similarly, Nazarbaev claimed to be a democrat because he had used referenda to achieve constitutional reform, yet the 91 percent support for Nazarbaev—reminiscent of Soviet times—suggests the limited extent of pluralism in the Kazakh polity (Bremmer and Welt 1996, 192).

The liberal view shares the concern of the electoral school that the president will use temporary advantage to create permanent changes that oppress minorities and political opposition. The efforts by the Kazakhs, for example, could be seen as an illiberal effort to create permanent oppression of an ethnic minority. A conscientious liberal perspective on Russia is offered by M. Steven Fish. He notes the defeat of liberal parties since 1993 and poses the tension between liberalism and democracy in the following way: “What if the Russian people vote democracy into oblivion?” (1996, 108). “Is liberalism viable in Russia?” (1996, 109). Fish places much of the responsibility for the defeats of liberalism on Russian liberals themselves who, he argues, have given insufficient attention to problems of public order (1996, 110). “What many Russians are experiencing...is a night-watchman state without the night watchman—that is, a state that has renounced many of its welfarist commitments *and* fails to provide even basic personal protection” (1996, 112).

Fish rightly believes that “there is nothing ‘illiberal’ about a stern and uncompromising position on the question of public order.” But critics of liberalism (such as Carl Schmitt) argue that the constitutional democratic state based on the rule of law (the *Rechtsstaat*) presupposes the existence of a powerful political apparatus (the *Machtstaat*) which is revealed only in emergency situations (see Slagstad 1988). The argument (see Linz and Stepan 1996b; Shevtsova 1994) that Russia is a mixed or hybrid regime—where certain democratic freedoms exist but many liberal freedoms are restricted—begs the question: What regimes do not reveal their hybrid nature in emergency situations?

¹⁰ Reuters, “Belarus president now under pressure from Russia,” 20 November 1996.

Deliberative democrats have disappointingly little to add to the liberal perspective. Indeed, most deliberative democrats have assumed the existence of established liberal democracies, paying scant attention to nations outside the North Atlantic region. More importantly, they are no match for the politician who follows the Machiavellian advice that “those

princes have achieved great things who have made small account of good faith, and who understood by cunning to circumvent the intelligence of others; and...got the better of those whose actions were dictated by loyalty and faith.” Jane Mansbridge (1996, 46) summarizes the objection well: “theorists of deliberative democracy have stressed the democratic potential for reasoned persuasion to the almost complete exclusion of the independently justifiable arguments for power as coercion in democratic life. Yet democracies must have their coercive as well as their deliberative moments.”

In summary, electoral democracy provides the best account of the implications of *autogolpes* in terms of elections and parties. Liberal and deliberative democracy provide less compelling explanations for *autogolpes*. They are better at calling attention to how other attributes of democracy may be affected by the departure from electoral democracy.

2. Legislative-Executive Relations

A central justification for *autogolpes* is that such measures are necessary in order to overcome the institutional gridlock created by obstructionist legislators. The consequences are divided government, immobilism, and an increasingly cynical, result-demanding public. Democrats cannot confront this problem without a theory of the separation of powers. Electoral democrats do not provide such a theory—at least not a fully fledged one—although it seems to be implicit in some of their claims. Liberal and deliberative democrats, on the other hand, do have such a theory and, thereby, provide a more solid foundation for understanding both the manner in which legislative-executive relations may cause *autogolpes* as well as the latter’s implications for the subordination of one branch of government to another.

Electoral democrats provide an at best ambiguous defense of the legislature. Weber, to take a classic source, believed that parliament was an “efficient means of selecting and producing political leaders” (see Slagstad 1988, 121), but his idea of a “Caesarist Führerdemokratie” resonates with the strong executive systems created by recent *autogolpes*. Moreover, Weber was as vague about the parliament’s relationship with the executive as advocates of executive presidencies are today. Contemporary electoral democrats emphasize the need for elections of both the executive and the legislature, but do not spell out why both are needed. In order to make this explicit, an exegesis of electoral democracy’s reading of democratic theory that unmasks the hidden complexities and difficulties behind the ostensible

parsimoniousness of this perspective is required. A notion of the separation of powers is built, however precariously, into this seemingly narrow view.

Przeworski suggests that democracy is a system of rules. Were all rules to emanate from a single source they would be arbitrary. Hobbes, as usual, is the classic source: “Nor is it possible for any person to be bound to himself; because he that can bind, can release; and therefore he that is bound to himselfe onely, is not bound” (cited in Holmes 1988, 210, fn 50). Thus, in Przeworski’s view, a characteristic of dictatorship is that policy becomes purely arbitrary. Przeworski’s analysis is similar to Sartori’s argument that the antinomy of democracy is autocracy, since the key feature of autocracy is that the ruler is not bound by rules.

“Legislatures establish rules,” says Przeworski (1991, 11); he and his colleagues insist on an elected legislature as a means of avoiding concentration of power in the hands of one person: If the president assumes legislative as well as executive functions, he or she can change the rules of the game to suit his or her needs. Moreover, the legislature must be effective and representative; it cannot be merely a rubber stamp operation. Closure of the legislature entails the shift from a system of rules to the rule of one person—an about face before democratization. The nostalgia for more ‘direct’ forms of democracy is dismissed as an illusion by the electoral school.

Liberal democracy gives the separation of powers a more solid justification. Whereas the executive embodies the need for action and the judiciary the need for rules, the legislature embodies the need for judgment, reflection, and criticism—in short, loyal opposition. For liberals an effective and sovereign legislature is necessary to ensure the accountability (excluded by electoral democrats from their definition of democracy) and obedience to the rule of law on the part of the executive. It is the best available check against secret and clandestine behavior by the executive; the latter, due to its role in national defense and as a guarantor of order, is subject to pressures to act outside of the law or beyond public knowledge. A legislature that protects the executive is an accomplice in the secrecy and lawlessness of the executive. Such a legislature is consistent with a delegative—rather than representative—notion of rule.

This view has direct implications for institutional design. Presidential systems are more likely to lead to institutional gridlock, as Juan Linz has carefully argued, because the direct election of a president for a fixed term provides no remedy to deal with situations in which the executive has lost—or never won—the support of the legislature. *Autogolpes* are notably absent in parliamentary systems that require

the government to call elections when the confidence of the parliament has been lost.¹¹

Linz and Stepan's conception of the rule of law in a democracy precludes "a democracy in which a single leader enjoys, or thinks he or she enjoys, a 'democratic' legitimacy that allows him or her to ignore, dismiss, or alter other institutions—the legislature, the courts, the constitutional limits of power" (1996b, 19–20). Further, certain "presidential democracies—with their tendency toward populist, plebiscitarian, 'delegative' characteristics, together with fixed term of office and a 'no-reelection' rule that excludes accountability before the electorate—encourage nonconstitutional or anticonstitutional behavior that threatens the rule of law, often democracy itself, and certainly democratic consolidation" (1996b, 20).

It is an elementary error to believe that legislatures are, by nature, bastions of deliberation and loyal opposition. The Russian Supreme Soviet clearly wished to perpetuate its term in power and postpone elections for as long as possible, knowing full well that few of its members would survive free and competitive elections. The tension between the president and the parliament was a real struggle for power, and the democratic credentials of both sides were imperfect. Yeltsin's contempt for parliament was open and bitter. Although he stopped short of opposing the principle of parliamentary government or the separation of powers, Yeltsin denied that the parliament could be his equal. The idea of a strong executive presidency, at least in Russia, implied subordination of the legislature. Certainly, the president is the only official elected by the whole body of the electorate, and in Latin America he (or she) "personifies the nation."¹² In Russia the president combined the "extreme plebiscitary, antiinstitutional style of presidentialism" typical of Latin American delegative democracies with "the added twist that he denounced the legitimacy of the legislature because of its Soviet origins" (Linz and Stepan 1996a, 396–97).

However, Yeltsin's own Duma—which does not have Soviet origins—was also subordinated to the presidency. Liberals fear that the elevation of the president above parliament creates the idea of a unified 'we the people.'

¹¹ Cromwell's expulsion of the Rump Parliament in seventeenth-century England occurred before the rules of parliamentary democracy emerged. Indeed, England at the time looked like some present-day presidential systems. Not surprisingly, Cromwell's arguments were similar to those of Fujimori, Serrano, and Yeltsin: parliament was corrupt, seeking to perpetuate itself in power, and obstructing good government.

¹² This phrase comes from article 110 of the Peruvian Constitution.

A major reason given for the Peruvian *autogolpe* was an effort by Congress to restrict presidential powers. However, analysis of the legislation and the record of parliamentary debate in the period shows that legislators sought only to affirm the role of Congress as the highest law-making authority. In practical terms, that meant that all legal decrees by the executive would need to be justified and supported with reasons before the Congress, that supreme extraordinary decrees issued in times of emergency would be considered precarious, temporary, and exceptional vis-à-vis normal legislation, and that the principle of ministerial responsibility would guide the actions of the executive. The objective was to regulate the executive so that it would act within the framework of the laws.

Efforts to submit the executive to the rule of law proved highly irritating to President Fujimori. Not surprisingly, the two congresses elected after the *autogolpe* (in 1992 and 1995) were less deliberative and more delegative bodies. They showed little legislative initiative and no interest in holding the executive accountable to the laws. In contrast to the period between 1980 and 1992, most legislative initiatives now come from the executive, and the 1995 Congress has yet to investigate a single instance of corruption or wrongdoing by the executive or the armed forces.

Deliberative democrats provide arguments for denying administrative power to the legislature and for rigorously separating it from the judiciary, but they also stress the need to submerge it within the free and unregulated public discussion that occurs in a democratic civil society. A good example would be the mobilization of civil society in Guatemala in opposition to the Serrano *autogolpe*. The Instancia Nacional de Consenso played a vital role in encouraging a paralyzed and discredited Congress to play its constitutional role in choosing a new president. Such actions went well beyond the passive citizenship expected by electoral or liberal democrats, yet they were crucial to the defense of democracy.

Legislatures have been diminished wherever *autogolpes* have succeeded. Thus, insofar as a vigorous and sovereign legislature is considered an inherent feature of democracy, *autogolpes* are unambiguously antithetical to deliberative democrats. Indeed, a common denominator among the political regimes that have emerged subsequent to *autogolpes* is the limited ability of legislatures to scrutinize, monitor, censor, criticize, or otherwise constrain the actions of the executive and a severing of ties between legislators and the public. This erodes the public sphere; indeed, in Russia, a surprising number of the members of the Duma are actively involved in organized crime.

In summary, liberal democrats have devoted considerable attention to the institutional causes of democratic breakdown, and their analysis can be used to understand institutional gridlock. They thereby directly confront one of the central arguments made in justification of *autogolpes*. Moreover, they demonstrate how the violation of the separation of powers threatens the very foundation of liberal democracy. Liberal democrats emphasize the importance of checks and balances as a constraint on the executive. Without a lively and effective legislature, the executive is likely to act in defiance of the rule of law and as a single voice for the *demos*. Deliberative democrats support and reinforce liberal democrats on this point. They argue that when legislatures are weakened the executive is more likely to ignore the requirements of publicity and openness to criticism that are inherent in the institutional design of constitutional democracies.

3. The Judiciary and the Rule of Law

Autogolpes are often justified by reference to the inability of the judicial branch of government to reform itself. Liberal democrats do not underestimate the difficulty of judicial reform, but they also supply grounds for deep concern about executive meddling in judicial affairs. Critics charge that corruption may be cleaned up only at the expense of judicial independence. How are we to assess this trade off?

Liberal democracy provides a firm, perhaps rigid, defense of the laws. Deliberative democrats are less convinced of the sanctity of the law, but they nevertheless provide an account of the independence of the judiciary from both legislative and executive control. On this point there are minor differences in the views of liberal and deliberative democrats. Electoral democrats have the least to say.

Little discussion of rule of law or judicial independence is found in Przeworski, a fact consistent with his narrow focus on elections. There is, however, a more important reason for the silence of electoral democrats: the bias in favor of giving cooperative outcomes a foundation in noncooperative theory (that is, the presumption that agreements are not binding). Przeworski believes that “constitutions that are nothing but pacts of domination among the most recent victors, are only as durable as the conditions that generated the last political victory” (Przeworski 1991, 36). However, if democracy is in equilibrium, one might ask: Why have a constitution? Law has no inherent value in a view that rests on microfoundations. In a theory that views democracy as the equilibrium of the

decentralized strategies of the players, further external constraints are unnecessary (Elster 1988).

Liberal democrats place the judiciary at the center of liberal democracy, upholding the independence and authority of the courts—especially the supreme or constitutional courts. Liberal democrats regard the removal of supreme court judges and the reform of the judiciary by the executive as one of the most pernicious and dangerous aspects of *autogolpes*—even though judges are not elected officials—because it threatens the very foundations of liberal democracy.

Liberal democracy, as a political regime based on the rule of law, constrains the *demos*. Linz and Stepan, for example, argue that to achieve a consolidated democracy, it is necessary that all significant actors “respect and uphold the rule of law” and acquire a “spirit of constitutionalism.” Such a spirit implies “a commitment to ‘self-binding’ procedures of governance that require exceptional majorities to change” (1996a, 10). This defense of the rule of law upholds liberalism rather than democracy—although the two tend to be conflated. What is troubling to liberals about *autogolpes*, at least with regard to this issue, is not that the suspension of constitutional courts diminishes democracy but that it weakens liberalism. The creation of military courts, suspension of habeas corpus, and politicization of the judiciary are all deeply troubling examples of illiberal excesses to which democracies are prone unless constrained by the rule of law, constitutionalism, and a legal political culture.

The quality of democratic life would be dramatically improved by strengthening the rule of law in many Latin American and Soviet successor states. However, a rigid defense of existing legal systems is likely to be counterproductive in countries where legal traditions are weakly rooted. So sharp is the contrast between the formal rules and actual practices in Latin American and Soviet successor states that the public often admires not the gentleman who plays by the rules of the *país oficial* but the underdog (Fujimori, Yeltsin) who upsets the rules and, on behalf of the *país profundo*, imposes his will on recalcitrant bureaucrats and establishment politicians.

Moreover, how do we square the liberal view with the fact that few modern experiences in constitution-making, including the celebrated case of the United States, have been free from illegality? Why abide by a set of rules, laws, or constitutions written by a previous generation—especially when that generation lived under Communist or military rule? Surely there is nothing wrong with a strong majority emerging from time to time: one that, as Madison put it, asserts substance

over form. Madison argued that in founding moments the *demos* asserts its right to alter the form of government—especially when those who oppose the substantive changes masquerade as constitutionalists upholding legal formalities (Ackerman 1988, 161–62). To deny this could undermine the revolutionary appeal of democracy, which may be as important as its legality.

Some democratic theorists have appealed to the principle of “retrospective accountability” (Gutmann and Thompson 1996, 121). This is similar to the claim made for the legitimacy of the *autogolpe*: while an *autogolpe* is illegal and temporarily undemocratic, its longer-term result would receive the blessing of the electorate through referendum, thereby creating a new system of democratic rules more consistent with the desire of the public for an energetic, decision-making executive.

In short, by simply upholding constitutional law, liberal constitutionalism fails to supply a sufficiently strong and flexible defense against authoritarianism. It provides an insufficient understanding of the complex relationship between the rule of law and democracy. Deliberative democrats provide an alternative understanding of the rule of law, in which the laws are open to review and criticism on the part of the public. In this view, the institutions of democracy should enable the public to consider all legal decisions as provisional understandings, to be revised in the future, if necessary, in the light of reasonable dissent. There is an internal connection, from this perspective, between the rule of law and democratic legitimacy. The force of law derives from procedures that guarantee reasonable outcomes; that is, the outcomes of democratic procedures have the moral weight of having been exposed to criticism and defended in public.

In practical terms, this leads to criticism of *autogolpes* not for their illegality per se but because they are part of a political struggle in which the executive seeks to immunize itself against public criticism through the dissolution of congress, the subordination of the judiciary, the formation of military courts that shield the armed forces from scrutiny, and the intimidation of lawyers and judges. Deliberative democrats such as Benjamin Barber had no qualms about expressing admiration for Yeltsin’s “refusal to acknowledge the constraints of the 1977 Russian (ex-Soviet) constitution, and his insistence on turning to a popular referendum (in April 1993) to validate his ‘illegality’.” However, Barber criticized Yeltsin’s “use of force in October 1993,” saying that “when democracy is the subject and a people unschooled in citizenship is the pupil, tanks make poor tutors” (1996, 356). An insistence on a legalistic culture is a counsel of despair: illegality is a lamentable fact of life. What

cannot be tolerated, from a deliberative perspective, is the use of illegal means to undermine democracy.

Deliberative democrats place less weight on rights and other restrictions of the *demos*—and more emphasis on moral respect and reciprocity as necessary features of communication in an open society (Benhabib 1996; Gutmann and Thompson 1996). Protection against the tyranny of the majority need not come from an insistence that rights be considered beyond public discussion—a position that is hardly consistent with the inculcation of democratic values or practices. The norms and procedures of democracy—guarantees of openness, the publicity principle, freedom of criticism, a vital public sphere, and a presumption of reasonable pluralism—offer sufficient protection. In the end, the only real guarantee of democratic stability is a democratic *demos*.

In summary, whereas electoral democracy is nearly silent on the rule of law, liberal and deliberative democrats confront the justifications given for *autogolpes* more directly. However, deliberative democrats offer a more successful defense of the rule of law, since liberalism lends itself to a rigidity on constitutional issues that is out of place in emergency situations, especially in countries without strong legal traditions.

4. Civil-Military Relations

Autogolpes are typically justified with reference to security threats. At the same time, they are assiduously distinguished from military coups by their intellectual authors (who are often in the military). *Autogolpes* represent only a temporary departure from democracy, it is claimed, and one that retains civilian supremacy over the armed forces. Critics point to the potential for an expansion of the power of the armed forces. How can we assess these alternative views? Whereas electoral democracy is silent on this issue, liberal democrats are severe critics of military enclaves. Deliberative democrats fear that *autogolpes* transform the military into a deliberative body.

Electoral democrats ignore civil-military relations (Alvarez et al. 1996, 21). Since democracy is not seen in deliberative terms, the locus of deliberation is irrelevant, as long as the president and legislature are elected. Liberals, by contrast, assert that *autogolpes* create unacceptable restrictions on civilian authority. Liberalism provides a principled basis for opposition to enclaves of military power, such as special military tribunals. The Peruvian case provides a dramatic illustration of how democracy is undermined by enclaves of military power. One of the major

innovations of the 1993 constitution was the introduction of a parallel system of military justice. The military courts were given jurisdiction over civilians in cases of treason and terrorism, and have even been used to charge foreign civilians with 'treason.' Military courts have tried retired military officers, in spite of the fact that the constitution explicitly states that retired officers are civilians. Indeed, military courts have repeatedly refused to comply with writs of habeas corpus issued by civilian judges on behalf of retired officers charged with crimes under the military court system. From a liberal perspective, the existence of a parallel system of military justice that refuses to obey the constitution or respect rights of defense and habeas corpus is sufficient reason to conclude that the regime in question is not a liberal democracy.

From a deliberative perspective, democracy requires subordination of the military to civilian authorities and the subordination of both to the rule of law, so that the actions of those in power are exposed to criticism and held accountable to the public. Yet the purpose of military courts is to shield the armed forces from public scrutiny. Military courts are an institutional expression of a deliberative military, and their origins are implicit in the very act of violating the constitution.

Analysts are somewhat divided on the legacy of the *autogolpe* for the role of the army in Russian politics (Arnett 1994; Taylor 1994; Busza 1996). On the one hand, analysts agree that the Russian armed forces are not like their Latin American counterparts, given the latter's history of coups and rebellions against civilian authority. On the other hand, Yeltsin contributed to the politicization of the armed forces by expanding their conception of duty to include domestic control and allowing them to be conspicuously involved in electoral politics. Moreover, he has exercised personal control over the high command and allowed it to make decisions over national defense without any parliamentary or other democratic oversight. In effect, these measures add up to virtually encouraging the armed forces to become a deliberative body. Along Latin American lines, the gap between constitutional role definition and actual practice has grown under Yeltsin.

For deliberative democrats, *autogolpes* place the armed forces in a position in which they are forced to decide between supporting the president and commander-in-chief or abiding by the constitution. Yeltsin was troubled by the fact that his crackdown on parliament broke the law, but according to his memoirs he was surprised that this could "lead to shooting" (1994, 242, 265). He showed little sympathy for Defense Minister General Grachev, who required a direct, written order to fire on the parliament (1994, 287). The *autogolpe* decision pushes the armed

forces into acting deliberatively, judging for themselves what is in the national interest. Even if the constitution explicitly denies the attributes of a deliberative institution to the armed forces, the actions of the president compel the high command to exercise political judgment. As soon as the president breaks the law, the armed forces become a deliberative institution.

5. Strong Executive Leadership

In justifying *autogolpes* their advocates refer to the need to take drastic measures to restore public confidence in governmental institutions. Such measures, it is claimed, require strong executive leadership. Critics charge that the concentration of power in the hands of the executive leads to secretive, authoritarian, and abusive exercise of power. Does public support for the new democracies of Latin America and the former Soviet Union rest on arguments different from those provided by the theories of democracy in support of established democracies?

Guillermo O'Donnell has recently contrasted representative democracy with what he calls 'delegative' democracy. In delegative democracies the president "is enabled to govern the country as he sees fit, and to the extent that the power relations allow, for the term to which he has been elected. The President is the embodiment of the nation and the main custodian of the national interest, which it is incumbent upon him to define. What he does in government does not need to bear any resemblance to what he said or promised during the electoral campaign—he has been authorized to govern as he sees fit" (1992, 6–7). Delegative democracies fall short of the "full institutional package of polyarchy" (O'Donnell 1996a, 40), yet such conceptions of rule may resonate in new democracies with a public yearning for strong and effective leadership.

Reisinger et al. (1994, 215) find that in Russia "the desire for strong leadership is positively associated with support for democratic values. This would be unexpected to those who presume that a desire for strong leadership forms part of an 'authoritarian,' or antidemocratic political culture." Similarly, Carmen Rosa Balbi (1997, 193) found no tension between support for democracy and strong leadership in Peru. She cites surveys showing that 70 percent of Peruvians supported democracy as the most appropriate political regime for Peru, while a similar number, 68 percent, believed (mistakenly, according to the theories discussed here) that the political regime in Peru remained democratic after the 1992 *autogolpe*.

A penchant for strong leadership is found among supporters of many democratic leaders and is perfectly consistent with electoral democracy (Reisinger et al. 1994, 217). The problem arises when so much power is concentrated in so few hands that other aspects of democracy are threatened. On this point electoral and liberal democrats converge around the defense of 'democratic rules.' Both Przeworski and Linz and Stepan, for example, define a consolidated democracy as one in which democracy is the 'only game in town.' Excessive concentration of power is cause for alarm when it threatens to destabilize these rules. The problem that neither of these theories confronts, however, is that *autogolpes* occur in part because the *demos* itself disagrees with the rules.

Electoral democrats do not tell us where the rules of the game come from, nor do they provide a normative standard for assessing whether one set of rules is more democratic than another. From this perspective we can determine only whether or not a particular set of rules enables the institutionalization of elections that are neither violated *ex post* nor manipulated *ex ante*. As electoral democrats, we might argue that the violation of democratic rules was 'justified' if the *autogolpe* led to a more stable equilibrium. Whether democracy is in equilibrium or not, however, tells us little about its quality; moreover, there are many possible democratic equilibria, not all of which are equally democratic (O'Donnell 1996a, 40). Electoral democracy allows us to assess the stability of these outcomes but explicitly seeks to avoid evaluating them in the light of a normative standard of democracy.

Liberal democrats provide a 'thicker' (more normatively laden) definition of the rules necessary for democratic consolidation—including the separation of powers, the rule of law, civilian supremacy over the military, and tolerance of opposition. They acknowledge that the rules of the democratic game may be undemocratic; indeed, they may be so inconsistent with the wishes of the vast majority of the electorate that public opinion embraces antidemocratic measures to change the rules. However, liberal democrats would not embrace an *autogolpe* unless it were to result in a more liberal political system—an unlikely outcome, given the temptations to abuse power that accompany the latter's concentration in the hands of the executive.

From a deliberative perspective, *autogolpes* force us to identify the rules and institutions that are essential in a democracy and the ones that are not. In the spirit of Santiago Nino's remark, cited above, that there are "no distinctive institutions of democracy outside a value-laden theory" that justifies them, deliberative democrats offer critical standards for assessing the moral justifications offered for and against democracy. In this view, the failures of democracy—including partyarchy, legislative

obstruction, judicial politicization, and security threats—cannot justify stronger leadership unless executive power is used to create a democracy that is at least equally deliberative. Yet, almost everything we know about *autogolpes* points in the opposite direction: concentration of power in the hands of an executive branch freed from ‘horizontal accountability,’ the preservation of the separation of powers only as a mere formality, and the erosion of the rule of law. In such systems the fact that there are regular elections should not disguise the erosion of democratic rights and freedoms.

Catherine M. Conaghan’s analysis of the role of polls in the debate leading to the 1992 *autogolpe* in Peru suggests that they weaken the public sphere (Conaghan 1994, 1995). They provided Fujimori with a rationale for violating the democratic rules. “With evidence of public support for his actions in hand, Fujimori was able to present his breach of the Constitution as a democratic exercise. Fujimori used polls to legitimate his assault on institutions and to steamroll ahead with political reforms that accelerated the disorganization of the party system, weakened the legislature, and concentrated even more power in an already near-imperial presidency” (1995, 230).

Conaghan argues that “Fujimori could successfully portray Peruvian democracy as ‘false’ because of the inadequacy of its institutions (particularly parties) in providing effective channels for the articulation and representation of diverse interests in Peruvian society” (1995, 246). She proposes that Peru’s public sphere be strengthened by promoting the internal democratization of parties and other civic organizations, coupled with the use of polls as part of a broader effort of public discussion aimed at producing more reasoned public judgments (1995, 246–49).

Two of the post-*autogolpe* regimes analyzed here—Peru and Russia—may be considered electoral democracies, but each violates the definitions of both liberal and deliberative democracy by centralizing power in the hands of the executive, subordinating the legislature to the executive and, to a greater or lesser degree, violating the independence of the judiciary and politicizing the armed forces. All of this is consistent with regularly scheduled, open, and competitive elections.

Whether or not and to what extent we are troubled by *autogolpes*, therefore, depends upon our perspectives, both theoretical and epistemological, and upon where we are located on the continuum of democratic theories. The idea of democracy as elections, while widely supported and better understood than the idea of liberal or deliberative democracy, furnishes a weaker basis for criticism of the justifications supplied for some of the political dynamics associated with *autogolpes*

than do the other two schools. If the task of theory is to be critical, electoral democracy fails to confront many of the arguments in justification of *autogolpes*. At the other end of the continuum, deliberative democrats provide an understanding of democracy that does not commit its authors to a particular set of institutional arrangements. This enables deliberative democrats to critically assess the gap between the norms implicit in the design of institutions and actual practice.

V. Conclusions

Each of the schools examined can be located along two conceptual dimensions: from positive to normative analysis, and from minimalist to maximalist definitions of democracy. Yet, sufficient overlap among the schools makes the delineation of boundaries and contrasting of logics a fruitful exercise. Both electoral and deliberative democrats share some assumptions with liberals, yet they remain distinctive schools. The question is, what does each view tell us about the implications of *autogolpes* for democracy?

There is considerable agreement among all three schools only on the issue of parties and elections; large-scale nation-states cannot be considered democracies unless they hold competitive elections. Regarding the legislature, the judiciary, and the military, there is some agreement between liberal and deliberative perspectives, particularly on the need for independence from the executive and the subordination of military power. On the issue of the strength of the executive, electoral and liberal democrats agree that too great a concentration of power constitutes a threat to democratic rules, while deliberative democrats focus more closely on the implications for the exercise of public deliberation.

It is clear that as we move along the continuum from minimal to maximalist schools there is a trade off between parsimony and complexity; concepts that are widely understood and applicable to a large number of cases are replaced by more demanding concepts applicable to a smaller number of cases and more problematic for democratic theorists. Another way of capturing this tension is to say that democracy may be defined as a set of dimensions, each of which is either present in or absent from a regime, or as a more complex web of connected and mutually reinforcing dimensions, each of which has to be interpreted in the light of the others. None of these schools entirely reduces democracy to its institutional manifestations; however, the electoral school comes closest to making this error. All share an interest in seeking to determine why those institutions associated with democracy come

about, and democracy is largely defined in terms of the presence or absence of those institutions. However, democracy is neither an institution nor an ensemble of institutions; it is the practices that such institutions make possible.

Since democracy cannot be defined exhaustively in terms of a particular institution or an arrangement of institutions, it is necessary to define democracy in a way that enables one to determine which institutions are necessary to the achievement of a particular normative goal of democratic life. Normative ideals will vary; it is pointless to hold up one particular set of institutions as the only model toward which all countries must converge in order to count as 'consolidated' democracies. We need to define democracy in ways that permit us to understand its complexity and diversity, recognizing democracy when it exists in a new form, but also firmly establishing critical standards that protect the integrity of the language through which we negotiate alternative meanings of democracy.

For the electoral school, democracy is defined in terms of contestation open to participation. Institutions make this possible, bringing individual and social rates of return from political competition into line. Similarly, liberal democrats see institutions as placing a set of restrictions on the exercise of power, a set of restrictions that makes democracy possible. The deliberative school is explicit about the need to reconstruct democratic theory by finding the traces of democratic norms inscribed in existing institutions. Each of these schools is an indispensable aid to understanding different aspects of democratic theory and practice.

The electoral approach is invaluable as a tool for analysis of the implications of departures from democracy; as a tool for tracing out the longer-term, more intangible consequences of short-term departures from democracy it is more limited. For example, the approach provides a circumscribed understanding of the separation of powers, no account of the link between the rule of law and democracy, and little basis for understanding civil-military relations. Finally, it does not capture the deliberative dimension of democracy.

The key difference between electoral democrats and deliberative democrats concerns the extent to which they believe the *demos* can or should participate in the exercise of public deliberation in the democratic process. As Przeworski puts it: "In all modern democracies, the deliberative process and day-to-day supervision over the government are well protected from the influence of the masses" (1991, 13). He approvingly quotes Carl Schmitt: "the development of modern mass democracy has made argumentative public discussion an empty formality" (cited in Przeworski 1991, 17).

By defining deliberation as the “endogenous change of preferences resulting from communication,” Przeworski confuses it with one of its possible results. His definition identifies why deliberation might be important from a game-theoretic perspective. But deliberation clearly need not involve changes in preferences.¹³

¹³ Standard definitions of deliberation include the following: examination and discussion of arguments for and against a measure; care in decision or action; to take council together so as to reach a decision; and to think about or consider

Deliberation is important to democracy because, as James S. Fishkin (1991, 29) says, "Without deliberation, democratic choices are not exercised in a meaningful way. If the preferences that determine the results of democratic procedures are unreflective or ignorant, then they lose their claim to political authority over us. Deliberation is necessary if the claims of democracy are not to be delegitimated."

One of Przeworski's objections to deliberation is the danger of seeking consensus in politics. He fears the implication, nicely summarized by Coleman, that deliberative democrats believe that "the minority does not consist of losers, and the majority of winners. Instead, the minority members have false beliefs about the general will; members of the majority have true beliefs" (cited in Przeworski 1991, 15–16). However, most deliberative democrats do not expect convergence toward a unique social preference to arise from discourse; they acknowledge the existence of what Rawls (1993) calls "reasonable pluralism." The question is whether or not reasonable disagreement precludes the public from exercising a capacity for political judgment. What is not evident to electoral democrats, because the actors in their models engage in cheap talk rather than deliberation, is that different political regimes affect the capacity of the public to exercise moral judgment collectively.

Liberal democracy provides a less analytical and parsimonious definition of democracy than the electoral school. It provides a compelling understanding of the separation of powers, problematizes relations among the rule of law, constitutionalism, and democracy, and is unequivocal on the issue of civil-military relations. Yet liberalism has a paradoxical status in democratic theory. On the one hand, liberalism is historically a necessary condition for modern democracy. On the other hand, it has functioned as a limitation on the extension of democracy to other spheres of life. Nowhere is this paradox more evident than in the new democracies of Latin America and the former Soviet Union. The political agenda of liberalism in such regions is a clear and progressive one: the need for stronger protection of human rights, respect for the constitution, the need for supreme courts and constitutional tribunals, an independent judiciary, a vigorous and sovereign legislature, the elimination of military courts and other 'reserve powers' of the military, and the strengthening of mechanisms of horizontal accountability.

At the same time, the agenda of liberalism is insufficient or, worse, a counsel of despair in nations where there is a weak legal culture, constitutions are frequently changed, and the public is not assertive about its rights because it fears authority. Under such conditions the value of rights and the rule of law cannot be taken for

granted and instead must develop out of the experience of democratic life. In the end, the liberal desire to depoliticize liberal rights and freedoms, to place them beyond the grasp of the *demos*, is not a viable political solution—citizens first need to be socialized, through the practice of democracy, to accept liberal rights and freedoms. The experience of *autogolpes* suggests that a democratic *demos* cannot be taken for granted, but such a *demos* is the only reliable guarantee of democracy.

Deliberative democracy is concerned with understanding the norms embedded in actual institutions and practices. It seeks to radicalize the liberal view of relations among the rule of law, separation of powers, constitutionalism, and democracy. In this way it enhances our understanding of liberal democracy and its limits.

For many years scholars have tended to accept a narrow definition of democracy, focusing on its observable institutional forms. This focus has discouraged sterile debate on ‘formal versus substantive’ democracy and facilitated cross-regional comparative analysis. However, the complexity of the challenges facing new democracies in the Third World and Soviet successor states suggests that there is a need to look more carefully at the quality of democracy, its institutional diversity, and the complex connections among its various attributes—elections, separation of powers, judicial independence, legislative initiative, civilian supremacy, and executive leadership.

We can hardly hope for a democratic *demos* unless we are prepared, at a minimum, to spell out the reasons why democracy offers the best hope for political freedom. Each school of democracy is associated with a normative agenda. Electoral democracy provides the basis for promoting elections as the centrepiece of democratization. Liberal democrats wish to promote a broader agenda involving respect for rights, the rule of law, constitutionalism, the supremacy of civilians over military power, the development of traditions of constructive opposition and loyal dissent, and the formation of executive authorities accountable to ‘us the people.’ Deliberative democrats wish to radicalize liberal democracy in an effort to fortify civil society, revitalize the public sphere, and enhance the capacity of citizens to participate in a meaningful way in political judgments that affect their lives. All democrats have in common the desire to avoid creating polities in which the *demos* hates democracy.

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