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Populism, Illiberalism, and Popular Sovereignty in Latin America

JULIO F. CARRIÓN

Abstract

There is a contested relationship between populism and democracy. Defenders of populism argue that populism enhances the democratic dimension of liberal democracy (popular sovereignty), even if its liberal component (checks and balances) may suffer as a result. The present paper rejects this claim on two counts: conceptual and empirical. The paper shows that the liberal and democratic dimensions of democracy are deeply interwoven in practice. Effective checks and balances (a central component of the liberal dimension) are necessary for the full exercise of popular sovereignty (the preeminent component of the democratic dimension). This paper shows that populism in power moderates the relationship between checks and balances (measured as horizontal accountability) and popular sovereignty (measured as free and fair elections). Therefore, the paper concludes that when checks and balances are eroded by populist chief executives, so too is the exercise of popular sovereignty. Empirically and conceptually, the liberal dimension of liberal democracy cannot be diminished significantly to enhance the democratic component, as theorists of populism claim, because the weakening of the first leads to the erosion of the second. The modeling strategy is based on a fixed-effect panel design of 19 Latin American countries in the period 1979-2021.

Keywords: Populism; popular socereignty; horizontal accountability; elections; Latin America

Julio F. Carrión
University of Delaware, USA
jcarrion@udel.edu
DOI: 10.53483/XCMS3553

Does populism, when in power, strengthen or erode democracy?[1] And if populism enhances democracy, does it do so at the expense of liberalism? While recent scholarship argues that populism in power always and inexorably erodes democracy,[2] several political theorists hold a divergent view. They have long portrayed populism as a healthy reaction to the elitist tendencies built into liberal democracies—that is, as a force that seeks to recover and strengthen the principle of popular sovereignty, which has, in their view, been diluted by constitutional constraints.[3] Margaret Canovan, for instance, writes that populism is "an appeal to 'the people' against both the established structure of power and the dominant ideas and values of the society."[4] Populist chief executives frequently portray representative institutions as obstacles to popular sovereignty and complain that entrenched elites in legislative, judicial, and oversight bodies represent an obstacle to the full exercise of popular will.[5] Viktor Orbán infamously argued that "a democracy does not necessarily have to be liberal."[6]

To be fair, defenders of populism point to real challenges that liberal democracies have been unable to address, such as growing income inequality, state capture, and the outsized political influence of economic elites.[7] Ernesto Laclau and Chantal Mouffe have a valid point when they criticize "the system of power" that "redefines and limits the operation" of the values of liberty and equality.[8] But the question is whether reducing liberal protections from enlarged executive power is the best way to combat that "system of power" while still protecting democracy. Nadia Urbinati replies to Laclau and Mouffe by asking an important question: "Do populist constitutions of democracy … include things like civil liberties and the separation of powers?" and, if defeated elites retain the right to reorganize, compete, and perhaps even win elections, then how is populism "any different from Schumpeterian democracy?"[9]

Another strand of scholarship argues that populism and democracy are incompatible, pointing to populism's anti-pluralism and illiberalism as drivers of democratic

1 I want to thank the organizers and participants of the "Illiberalism in Latin America" workshop (Illiberalism Studies Program, the George Washington University, April 13, 2022), as well as the two anonymous reviewers, for their insightful comments and suggestions.

2 Jan-Werner Müller, *What Is Populism?* (Philadelphia, PA: University of Pennsylvania Press, 2016); William A. Galston, *Anti-Pluralism: The Populist Threat to Liberal Democracy* (New Haven, CT: Yale University Press, 2018); Takis S. Pappas, *Populism and Liberal Democracy: A Comparative and Theoretical Analysis* (New York: Oxford University Press, 2019).

3 For an excellent analysis of how advocates of populism see it as "an answer to a formal conception of democracy," see Nadia Urbinati, *Me the People. How Populism Transforms Democracy* (Cambridge, MA: Harvard University Press, 2019).

4 Margaret Canovan, "Trust the People! Populism and the Two Faces of Democracy," *Political Studies* 47, no. 1 (1999): 2-16, 3, https://doi.org/10.1111/1467-9248.00184.

5 Alberto Fujimori, explaining his confrontational stance toward Congress, said "that there should be no sacred cows in Peru, that no one should have a crown in this country, not even the members of parliaments or the president" (quoted in Charles Kenney, *Fujimori's Coup and the Breakdown of Democracy in Latin America* [Notre Dame, IN: University of Notre Dame Press, 2004], 179). Rafael Correa, when first elected in Ecuador, argued in favor of a constituent assembly because "an anti-people majority ha[d] been formed" in the elected Congress ("Ecuador. Correa defiende en Guayaquil su proyecto de asamblea constituyente," *Notimérica*, January 4, 2007, https://www.notimerica.com/politica/noticia-ecuador-correa-defiende-guayaquil-proyecto-asamblea-constituyente-20070104052508.html.

6 Quoted in Marc F. Plattner, "Illiberal Democracy and the Struggle on the Right," *Journal of Democracy* 30, no. 1 (2019): 5-19, 9, https://doi.org/10.1353/jod.2019.0000.

7 I thank one anonymous reviewer for pointing out these real problems with the performance of liberal democracies.

8 Ernesto Laclau and Chantal Mouffe, *Hegemony and Socialist Strategy: Towards a Radical Democratic Politics. Second Edition* (London-New York: Verso), xvi.

9 Urbinati, *Me the People*, 35.

regression.[10] However, most of these studies do not empirically analyze the influence of populism in power on the relationship between the liberal and democratic dimensions of existing political regimes. Is populism in power in Latin America able to enhance democracy by reducing the liberal elements of the political regime? Does the erosion of liberal procedures—a process embraced by populism's defenders—lead to an increase in popular sovereignty? This paper is an effort to answer these questions by exploring the empirical relationship between liberalism and democracy under populist and non-populist chief executives.

In what follows, the liberal dimension of democracy is operationalized as the effective exercise of check and balances (also known as "horizontal accountability"). The democratic dimension of democracy is popular sovereignty, operationalized here as holding free and fair elections. There is general agreement that institutional constraints on the power of the state lead to clean elections. Horizontal accountability, defined as the ability of state agencies to check the behavior of powerholders,[11] is part of an institutional package that produces good-quality democracy.[12] Merkel and Croissant point out that "democratic elections need the support of complementary partial regimes, such as the rule of law, horizontal accountability, and an open public sphere."[13] Can populism in power, as some argue, strengthen people's right to free and fair elections while eroding these liberal "complementary partial regimes"?

Proponents of populism argue that liberal procedures can curtail the exercise of popular sovereignty. The alternative view, which I seek to test here, contends that these two dimensions cannot be disentangled without affecting people's right to free and fair elections. I argue that due to its strong illiberal tendencies, populism in power undermines the exercise of free and fair elections by moderating the impact that horizontal accountability (a liberal dimension) has on the conduct of elections (a democratic dimension). To test this posited moderating impact, I utilize a panel design using Varieties of Democracy data (V-Dem version 12) for 19 Latin American countries. I start the analysis with 1979, when Ecuador held a presidential run-off that inaugurated what came to be known as the third wave of democratization in the region. The data end in 2021.

Before proceeding to the analysis, it is important to offer a brief definition of populism. In the field of comparative politics, two treatments are frequently used. The first is the "ideational approach," which sees populism as a "thin ideology" that divides the political world into two: a noble and pure "people" confront a morally corrupt "elite" that denies the enactment of the general will.[14] The second defines populism as a

10 Steven Levitsky and James Loxton, "Populism and Competitive Authoritarianism in the Andes," *Democratization* 20, no. 1 (2013): 107-136, https://doi.org/10.1080/13510347.2013.738864.; Robert A. Huber and Christian H. Schimpf, "Friend or Foe? Testing the Influence of Populism on Democratic Quality in Latin America," *Political Studies* 64, no. 4 (2016): 872-889, https://doi.org/10.1111/1467-9248.12219.; Saskia Pauline Ruth, "Populism and the Erosion of Horizontal Accountability in Latin America," *Political Studies* 66, no. 2 (2018): 356-375, https://doi.org/10.1177/0032321717723511.; Pappas, *Populism and Liberal Democracy*; Saskia P. Ruth-Lovell, Anna Lührman, and Sandra Grahn, "Democracy and Populism: Testing a Contentious Relationship," V-Dem Working Paper 2019:91 (2019), https://www.v-dem.net/media/filer_public/a8/b9/a8b9f007-37fd-4f67-8955-f60e11bfef08/working_paper_91.pdf; István Benedek, "Riders on the Storm: The Role of Populism in the Global Crisis of Democracy and in the Functioning of Electoral Autocracies," *Politics in Central Europe* 17, no. 2 (2021): 197-225, https://doi.org/10.2478/pce-2021-0009.; but for a more nuanced argument, see Julio F. Carrión, *A Dynamic Theory of Populism in Power: The Andes in Comparative Perspective* (New York: Oxford University Press, 2022) and Kurt Weyland, "Populism's Threat to Democracy: Comparative Lessons for the United States," *Perspectives on Politics* 18, no. 2 (2020): 389-406, https://doi.org/10.1017/s1537592719003955.

11 Guillermo O'Donnell, "Delegative Democracy," *Journal of Democracy* 5, no. 1 (1994): 55-69, https://doi.org/10.1353/jod.1994.0010.

12 Leonardo Morlino, "What is a 'Good' Democracy?" *Democratization* 11, no. 5: 10-32, https://doi.org/10.1080/13510340412331304589.

13 Wolfgang Merkel and Aurel Croissant, "Conclusion: Good and Defective Democracies," *Democratization* 11, no. 5 (2004): 199-213, 199, https://doi.org/10.1080/13510340412331304651.

14 Cas Mudde and Cristóbal Rovira Kaltwasser, *Populism: A Very Short Introduction* (New York: Oxford University Press, 2017).

political strategy to seek and exercise power.[15] This strategy relies on establishing unmediated, direct links between a personalistic leader and a largely unorganized mass of followers. I embrace the political-strategic approach to populism because it captures the main domain of populism, which is power and domination, as Weyland puts it.[16] At the same time, it is indisputable that populist leaders see the world in a Manichean fashion, embracing an "us-versus-them" mentality that leads them to reject pluralism and downplay the importance of institutional constraints on the exercise of power.

I therefore define populism as a political strategy that seeks to establish direct, unmediated links with generally unorganized followers, embraces an "us-versus-them" mentality, and exhibits deep distrust of checks and balances. In the paper, populism in power is measured by a hand-coded dummy variable that assigns a 1 for each year (or partial year) a populist was in power, and 0 otherwise. (This is discussed further in the section on populism in Latin America below.)

The paper proceeds as follows. The first section revisits the debate regarding the relationship between populism and the liberal and democratic components of liberal democracy. It argues that the illiberal tendencies associated with populism endanger liberal practices and, in the process, the democratic dimension of existing democracies. The second section briefly describes the experience of populism in power in Latin America, showing the diversity of outcomes for democratic rule the states of the region exhibit. The third section hypothesizes the empirical relationship between populism, horizontal accountability, and democratic elections. The fourth section discusses the results. The concluding section offers some final thoughts about the relationship between populism, illiberalism, and popular sovereignty.

Populism, Liberalism, and Popular Sovereignty

Theorists of democracy have long identified two principles, or dimensions, that underpin contemporary democracies.[17] The first is popular sovereignty, manifested in the ideal of majority rule. This principle embodies the notion that people are the source of political legitimacy and the foundation of the political regime.[18] The second refers to the liberal rights—civil and political—that every citizen enjoys as a member of the political community. The liberal component is manifested in the practice of constitutionalism, which not only guarantees individual rights, but also limits the power of the state. Some argue that the coexistence of liberal and democratic principles in contemporary liberal democracies is both a historical accident and an unexpected combination produced by the demands of practical politics.[19] This paradoxical confluence was, according to Mouffe, the product of bitter historical battles.[20] This conventional view, which sees the liberal and democratic principles cohabitating in tension, is described as the "two-strand model" of liberal democracy.[21]

Theorists advocating for populism operate within this two-strand conceptual universe of liberal democracy. Nadia Urbinati is correct in pointing out that those who praise populism do so precisely because it is meant to reinforce the democratic

15 Kurt Weyland, "Clarifying a Contested Concept: Populism in the Study of Latin American Politics," *Comparative Politics* 34, no. 1 (2001): 1-22, https://doi.org/10.2307/422412.

16 Ibid., 11.

17 David Held, *Models of Democracy. Third edition* (Stanford, CA: Stanford University Press, 2006).

18 Margaret Canovan, "Taking Politics to the People: Populism as the Ideology of Democracy," in *Democracies and the Populist Challenge*, ed. Yves Mény and Yves Surel (Basingstoke: Palgrave), 25; Paul Blokker, "Populist Constitutionalism," in *Routledge Handbook of Global Populism*, ed. Carlos de la Torre (New York: Routledge, 2019), 116.

19 Yves Mény and Yves Surel, "The Constitutive Ambiguity of Populism," in *Democracies and the Populist Challenge*, ed. Yves Mény and Yves Surel (London: Palgrave, 2002), 7.

20 Chantal Mouffe, *The Democratic Paradox* (London: Verso, 2000).

21 Koen Abts and Stefan Rummens, "Populism versus Democracy," *Political Studies* 55, no. 2 (2007): 405-424, https://doi.org/10.1111/j.1467-9248.2007.00657.x.

pillar of liberal politics that has been eroded in contemporary democracies.[22] Indeed, some argue that populism reclaims, revives, and strengthens the popular sovereignty dimension that is very limited in today's democracies. Margaret Canovan, while clear-eyed about its risks, suggests that populism can realize the promises of popular sovereignty that liberal democracy offers but on which it all too often fails to deliver.[23] Populism, then, recurs because it resides in the gap between the "two faces" of democracy: its "redemptive face" (the promise of liberation through popular power) and its "pragmatic face" (a form of government that manages conflict). Yves Mény and Yves Surel argue that populism has "a proximity to, and affinity with, the democratic principle."[24] Ernesto Laclau, referring to their work, says that "populism *is* the democratic element in contemporary representative systems" (emphasis added).[25]

A related perspective proposes that populism can be both a corrective and a threat to democracy, for it strengthens participation and inclusiveness (popular sovereignty) while weakening public contestation (a liberal component).[26] In this version, the impact of populism is disaggregated in relation to liberal democracy's two dimensions: populism is beneficial to the democratic face of democracy but pernicious to its liberal component. In a similar vein, Mudde asserts that populism is not hostile to representative democracy as such, but rather to the institutions of liberal democracy.[27]

This view that popular sovereignty is strengthened by populism, even if this comes at the expense of the liberal component, has been challenged. In an important contribution, and drawing on the work of Rawls, Habermas, and Lefort, Rummens argues that the "two strands" or "two pillars" understanding of liberal democracy is flawed because it assumes that one can function properly without the other.[28] For Rummens, liberal democracy is not a paradoxical regime that contains two pillars in tension; on the contrary, and relying on Habermas' language, there is a "co-originality" between them. By this he means that "the liberal and democratic dimensions are not incompatible at all, but represent, rather, inseparable or 'co-original' aspects of a regime which aims to preserve and protect human freedom."[29] Rummens admits he is offering not a historical account but a conceptual argument about the indissolubility of these two dimensions of liberal democracy.

I argue that the threat that populism poses to democracy originates not from its exultation of popular sovereignty and majority rule but from its illiberalism. Populism's illiberalism is grounded in two claims. The first is the monopoly of representation. This claim emanates from the way populism defines "the people," which is different from the way liberalism defines this notion. In a liberal democracy, "the people" is understood as "an irreducible plurality, consisting of free and equal citizens;"[30] it is a "unity-in-diversity."[31] Populism, by contrast, sees "the people" as an

22 Urbinati, *Me the People*, 571.

23 Canovan, "Trust the People!"

24 Mény and Surel, "The Constitutive Ambiguity of Populism," 6.

25 Ernesto Laclau, *On Populist Reason* (London, New York: Verso, 2005), 176.

26 Cristóbal Rovira Kaltwasser, "The Ambivalence of Populism: Threat and Corrective for Democracy," *Democratization* 19, no. 2 (2012): 184-208, 200, https://doi.org/10.1080/13510347.2011.572619.

27 Cas Mudde, "The Populist Zeitgeist," *Government and Opposition* 39, no. 4 (2004): 541-563, 561, https://doi.org/10.1111/j.1477-7053.2004.00135.x.

28 Stefan Rummens, "Populism as a Threat to Liberal Democracy," in *The Oxford Handbook of Populism*, ed. Cristóbal Rovira Kaltwasser, Paul Taggart, Paulina Ochoa Espejo, and Pierre Ostiguy (New York: Oxford University Press, 2017).

29 Ibid., 556.

30 Ibid., 554.

31 Ibid., 558.

ideal homogeneous community that possesses a single general will.[32] Populist leaders claim to be the only ones who represent the people; to that end, they embrace "an exclusionary form of identity politics ...[that] tends to pose a danger to democracy."[33] This claim to a monopoly on representation is the result of a dual move: the artificial creation of *the people* and the subsequent delegitimization of those that it excludes.[34] Indeed, Arato and Cohen argue that the logic of populism is to depict one part of the people as representative of the whole and to conceive of this imaginary "people" as an ideal unity confronting a dangerous enemy.[35] Moreover, populism rejects "otherness" and therefore delegitimizes any challenge that disrupts the unity of that idealized people.[36]

This delegitimization is manifested in the "us-versus-them" mentality that populism embraces.[37] Given their claim to be the only ones who truly represent the real people, populist leaders can never accept, as Panizza tells us, that "the people's will can never be fully enacted" and therefore "there could only be contested versions of who the people are, and who has the right to speak on its behalf."[38] Along similar lines, Abts and Rummens emphasize that the will of the people has to be mediated and is an ongoing construction.[39] In short, the anti-pluralism that many scholars identify in populism is the consequence of its claim to be the sole representative of an idealized people. Stressing that the liberal cannot be disentangled from the democratic, Panizza writes that the "argument for the toleration of differences is not only a liberal argument but a democratic argument as well."[40] Populism's illiberalism undermines its claims to be democratic.

The second claim that makes populism illiberal is its view that "constituent power" has unlimited primacy over "constituted power." Many have noted the predilection of populist leaders for embracing "foundational" or "refoundational" language to imply that they are (re)creating a new political order to recover popular sovereignty undermined by previous governments.[41] It is true that left-wing populist leaders choose to enact their agendas through constitution-making rather than revolt or violence.[42] In fact, it has been argued that there is a populist constitutionalism that relies on the primacy of constituent power to not only enact constitutions, but also

32 Andrew Arato and Jean L. Cohen, *Populism and Civil Society: The Challenge to Constitutional Democracy* (New York: Oxford University Press, 2021); Galston, *Anti-Pluralism*; Mudde and Kaltwasser, *Populism: A Very Short Introduction*; Urbinati, *Me the People*.

33 Müller, *What Is Populism?*, 3.

34 Ibid., 19-20.

35 Andrew Arato and Jean L. Cohen, "Civil Society, Populism, and Religion," in *Routledge Handbook of Global Populism*, ed. Carlos de la Torre (New York: Routledge, 2018).

36 Pierre Rosanvallon, *Counter-Democracy: Politics in an Age of Distrust* (Cambridge and New York: Cambridge University Press, 2008), 266.

37 Paul Taggart, *Populism* (Buckingham and Philadelphia: Open University Press, 2000); Ernesto Laclau, "Populism: What's in a Name?" In *Populism and the Mirror of Democracy*, ed. Francisco Panizza (London-New York: Verso), 2005; Francisco Panizza, "Introduction: Populism and the Mirror of Democracy," in *Populism and the Mirror of Democracy*, ed. Francisco Panizza (London-New York: Verso, 2005); Julio F. Carrión, "Democracy and Populism in the Andes: A Problematic Coexistence," in *Latin American Democracy: Emerging Reality or Endangered Species? Second edition*, ed. Richard L. Millett, Jennifer S. Holmes, and Orlando J. Pérez (New York and London: Routledge, 2015).

38 Panizza, "Introduction: Populism and the Mirror of Democracy," 29.

39 Abts and Rummens, "Populism versus Democracy," 420.

40 Panizza, "Introduction: Populism and the Mirror of Democracy," 29.

41 Arato and Cohen, *Populism and Civil Society*, 155; Gábor Halmai, "Is There Such Thing as 'Populist Constitutionalism'? The Case of Hungary," *Fudan Journal of Humanities and Social Sciences* 11, no. 3 (2018): 323-339, https://doi.org/10.1007/s40647-018-0211-5.

42 Maxwell A. Cameron and Kenneth E. Sharpe, "Andean Left Turns: Constituent Power and Constitution Making," in *Latin America's Left Turns. Politics, Policies and Trajectories of Change*, ed. Maxwell A. Cameron and Eric Hershberg (Boulder, CO, and London: Lynne Rienner Publishers, 2010), 65.

reform them at will, thus situating politics higher than law.[43] Others, more critical of the motives behind wholesale constitutional changes, see them as part of an effort by chief executives to "fix" the political game and codify power asymmetries that favor them.[44] Regardless of whether there is such a thing as "populist constitutionalism," populism rejects the principle that constitutions are written not only to organize power (with the people as the source of their legitimacy), but also to set limits on those who wield power in the name of the people.[45] Many courts, captured by populist leaders and working under the constitutions these leaders have enacted, operate not to limit executive power but to protect and enhance it. The concepts of "autocratic legalism,"[46] "discriminatory legalism,"[47] and "abusive judicial review"[48] illustrate such instrumental use of constitutionalism under populism. This is also manifested in the frequency with which populist leaders amend their own constitutions. Once they have acquired enough power asymmetry, they engage in practices that would have been unthinkable when they first came to power.[49] Jan-Werner Müller concludes that populists might draft constitutions, but "they violate certain core ideas of a *normative* understanding of constitutionalism" (emphasis original).[50] This tendency to see constitutionalism as an instrument for enhancing—rather than limiting—the power of those in charge of the state underlies the illiberal practice of populism in power.

Building on the previous discussion, I argue that populism in power erodes the democratic (popular sovereignty) dimension of democratic rule precisely because it reduces the effectiveness of liberal practices that guarantee its exercise. I contend that populism moderates (decreases) the positive impact of horizontal accountability on free and fair elections. Before proceeding to the empirical section, a short discussion of the prevalence of populism in Latin America is in order.

Populism in Latin America

Populist movements and leaders claim to represent people's will when they confront the strictures posed by liberal institutions (for example, the need to have legislative supermajorities and overcome judicial review to enact significant constitutional reform). Yet in Latin America, as elsewhere, populism's record of protecting people's right to participate in free and fair elections is mixed. While it is true that populism in power does not always lead to a significant decline in levels of democracy,[51] there are more than a few cases in Latin America where it has done so. Case studies show that in such places as Venezuela, Peru, Ecuador, Bolivia, and Nicaragua, populist leaders tilted the electoral playing field to such an extent that elections held under their rule

43 Luigi Corrias, "Populism in Constitutional Key: Constituent Power, Popular Power, Popular Sovereignty and Constitutional Identity," *European Constitutional Law Review* 12, no. 1 (2016): 6-26, quoted in Halmai, "Is There Such Thing as 'Populist Constitutionalism'?," 326, https://doi.org/10.1017/s1574019616000031.

44 Javier Corrales, *Fixing Democracy: Why Constitutional Change Often Fails to Enhance Democracy in Latin America* (Oxford and New York: Oxford University Press, 2018), 10-11.

45 Galston, *Anti-Pluralism*, 17.

46 Javier Corrales, "Autocratic Legalism in Venezuela," *Journal of Democracy* 26, no. 2 (2015): 37-51, https://doi.org/10.1353/jod.2015.0031.

47 Kurt Weyland, "Latin America's Authoritarian Drift: The Threat from the Populist Left," *Journal of Democracy* 24, no. 3 (2013): 18-32, https://doi.org/10.1353/jod.2013.0045.

48 David Landau and Rosalind Dixon, "Abusive Judicial Review: Courts against Democracy," *UC Davis Law Review* 53, no. 3 (2020): 1313-1388, https://doi.org/10.1093/oso/9780192893765.003.0005.

49 Carrión, *A Dynamic Theory of Populism in Power*, 225.

50 Jan-Werner Müller, "Populism and Constitutionalism," in *The Oxford Handbook of Populism*, ed. Cristóbal Rovira Kaltwasser, Paul Taggart, Paulina Ochoa Espejo, and Pierre Ostiguy (Oxford and New York: Oxford University Press, 2017), 591

51 Steven Levitsky and James Loxton, "Populism and Competitive Authoritarianism in Latin America," in *Routledge Handbook of Global Populism*, ed. Carlos de la Torre (New York: Routledge, 2018); Pappas, *Populism and Liberal Democracy*; Weyland, *Populism's Threat to Democracy*; Carrión, *A Dynamic Theory of Populism in Power*.

could not be called free or fair.[52] By contrast, in other cases—among them Argentina, Brazil, and Panama—the arrival of populism in power did not produce a noticeable change in the quality of elections. In a similar vein, while some populist leaders are successful in establishing political monopolies, many others fail to do so, facing early political deaths or eventual collapse.[53]

Of the subregions in Latin America, the Andes are perhaps the one that has been most impacted by populist governments since 1979. During the period under study, every single country in this subregion elected at least one populist presidential candidate. Some did not last long, as opposition-controlled legislatures impeached and removed them, but others were able to change their countries' constitutions to secure extended reelections. Lucio Gutiérrez was elected in Ecuador in 2003 on a platform of economic reform and clean government. He had the support of the indigenous movements and left-wing parties. After clashing with the opposition-controlled legislature, he was removed from office in 2005. His government had no opportunity to influence the nature of the electoral game. Rafael Correa, elected in late 2006, remained in office for a decade. In the process, he built a regime that many labeled competitive authoritarian.[54] In Peru, Alberto Fujimori shut down Congress and the judiciary in 1992; in 2000, he held elections that were considered neither free nor fair.[55] Evo Morales stayed in power in Bolivia from 2006 until 2019, when he was removed by a popular uprising protesting a rigged electoral process.[56] In Venezuela, Hugo Chávez assumed office in 1999; his hand-picked successor, Nicolás Maduro, is still in power. This regime is widely considered to be full authoritarian.[57] In Colombia, Álvaro Uribe was elected in 2002. He served two four-year terms and tried to change the constitution to run for a third term but was prevented from doing so by the Constitutional Court.[58]

Most of the Southern Cone countries have less experience with populism in power than the rest of the region, although Argentina and Brazil are notable exceptions. Argentina is one of the birthplaces of Latin American populism: Juan Domingo Perón was first elected in 1946. Since its return to democracy in 1983, Argentina has more often than not been ruled by populist presidents: Carlos Menem (1989-1999); Nestor Kirchner (2003-2007); and his widow, Cristina Fernández de Kirchner (2007-2015). In Brazil, the first democratic elections conducted after the end of the military government were held in 1989. They were won by the young, charismatic populist Fernando Collor de Mello. He soon confronted allegations of corruption, with the result that the Senate started impeachment proceedings. Populism returned in 2018 with the election of the right-wing populist Jair Bolsonaro. He failed to secure reelection in 2022. In Paraguay, the short-lived presidency of Fernando Lugo (2008-2012) marks the country's only experience of a populist in power. Neither Chile nor Uruguay elected a populist president in the period under study. Notably,

52 Catherine M. Conaghan, *Fujimori's Peru: Deception in the Public Sphere* (Pittsburgh, PA: University of Pittsburgh Press, 2005); Levitsky and Loxton, "Populism and Competitive Authoritarianism in Latin America"; Weyland, *Populism's Threat to Democracy*; Carrión, *A Dynamic Theory of Populism in Power*.

53 Kurt Weyland, "How Populism Dies: Political Weaknesses of Personalistic Plebiscitarian Leadership," *Political Science Quarterly* 137, no. 1 (2022): 9-42, 13, https://doi.org/10.1002/polq.13277.

54 Santiago Basabe-Serrano and Julián Martínez, "Ecuador: Cada vez menos democracia, cada vez más autoritarismo…con elecciones," *Revista de Ciencia Política* 34, no. 1 (2014): 145-170, https://doi.org/10.4067/s0718-090x2014000100007.; Carlos de la Torre, "The People, Democracy, and Authoritarianism in Rafael Correa's Ecuador," *Constellations* 21, no. 4 (2014): 457-466; Levitsky and Loxton, "Populism and Competitive Authoritarianism in Latin America," https://doi.org/10.1111/1467-8675.12117.

55 Conaghan, *Fujimori's Peru*; Julio F. Carrión, ed., *The Fujimori Legacy: The Rise of Electoral Authoritarianism in Peru* (University Park, PA: The Pennsylvania State University Press, 2006).

56 Fabrice Lehoucq, "Bolivia's Citizen Revolt," *Journal of Democracy* 31, no. 3 (2020): 130-144, https://doi.org/10.1353/jod.2020.0050.

57 Steven Levitsky and Lucan Way, "The New Competitive Authoritarianism," *Journal of Democracy* 31, no. 1 (2020): 51-65, https://doi.org/10.1353/jod.2020.0004.

58 Eduardo Posada-Carbó, "Latin America: Colombia after Uribe," *Journal of Democracy* 22, no. 1 (2011): 137-151.

no single populist chief executive in this subregion undermined in significant ways the democratic character of their national elections.

With the exception of Costa Rica all Central American countries experienced populism between 1979 and 2021. Guatemala elected the populist Jorge Serrano Elías in 1991. Once in office, Serrano tried to imitate Peru's Fujimori by declaring an auto-coup. A swift response from civil society and other political actors defeated this power grab and forced Serrano to leave the country.[59] Guatemala had a second encounter with populism when Álvaro Colom was elected in 2008 on a platform to reduce poverty. In Honduras, populist Manuel Zelaya assumed office in 2006. In 2009, he pushed for a referendum to change the constitution, which led to a confrontation with the other branches of government. When he refused to follow a judicial ruling, the Supreme Court issued an order for his arrest and the Army removed him from power. In Honduras, subversion of the constitution to enable an illegal reelection occurred under Juan Orlando Hernández, a non-populist and leader of the conservative National Party.[60]

In Nicaragua, the election of the populist Daniel Ortega in 2006 opened a period of growing autocratization akin to the one observed in Venezuela. Ortega's total control of institutions, including the judiciary, has led to the emergence of full-scale authoritarianism in the country.[61] In Panama, by contrast, the presidency of the populist businessman Ricardo Martinelli did not affect the level of democratic elections, even though Martinelli was involved in a series of corrupt practices, for which he was indicted after he left office in 2014.[62] In El Salvador, populism came to power rather recently: the country elected Nayid Bukele in 2019. Recent events there do not bode well for the survival of popular sovereignty in that country. Elections are not scheduled until 2024, but the country's Supreme Court has already enabled Bukele to run for immediate reelection. In Costa Rica, the populist Rodrigo Chaves assumed office in 2022, too recently to be included in the V-Dem data set. Finally, in Mexico, left-wing populist Andrés Manuel López Obrador won the 2018 election after twice running unsuccessfully. His administration has faced widespread criticism due to his harsh anti-press rhetoric and his efforts to influence the judiciary. He has announced that he does not intend to seek reelection—a possibility formally precluded by the Mexican Constitution.

In the statistical analysis that follows, I hand-code the variable "populism in power" as a dummy to account for the presence or absence of a populist chief executive. The decision to classify a chief executive as populist is based on an analysis of the literature (see source in Table 1) and complemented by the author's judgment. Every year (or partial year) that a populist was in power is assigned a 1; otherwise, the year is coded as 0. Table 1 reports the list of populist presidents from 1979 to 2021, showing how frequently Latin American voters have selected a populist candidate as chief executive. A cursory look at the names suggests that only in a handful of cases has democracy come to an end as a result of the populist experiment. However, even in those cases where democracy has survived, the country's institutionality has been affected, as some of these populist presidents have been removed by impeachment or coups.

59 Maxwell A. Cameron, "Self-Coups: Peru, Guatemala, and Russia," *Journal of Democracy* 9, no. 1 (1998): 125-139, https://doi.org/10.1353/jod.1998.0003.

60 J. Mark Ruhl, "Honduras: Democracy in Peril," in *Latin American Politics and Development. Ninth edition*, ed. Harvey F. Kline, Christine J. Wade, and Howard J. Wiarda (New York: Westview Press, 2018).
In Honduras, populist Xiomara Alfaro was elected in 2021, but she did not assume office until January 1, 2022. Therefore, she is not included in the analysis.

61 Levitsky and Way, "The New Competitive Authoritarianism."

62 Orlando J. Pérez, "Panama: Political Culture and the Struggle to Build Democracy," in *Latin American Politics and Development. Ninth edition*, ed. Harvey F. Kline, Christine J. Wade, and Howard J. Wiarda (New York: Westview Press, 2018).

Table 1. List of Latin American Populist Presidents, 1979-2021

Country	**Populist Presidents (Years)**
Argentina	Carlos Menem (1989-1999); Nestor Kirchner (2003-2007); Cristina Fernández de Kirchner (2007-2015)
Bolivia	Evo Morales (2006-2019)
Brazil	Fernando Collor de Mello (1990-1992); Jair Bolsonaro (2019-2021)
Chile	
Colombia	Álvaro Uribe (2002-2010)
Costa Rica	
Dominican Republic	Hipólito Mejía (2000-2004)
Ecuador	Abdalá Bucaram (1996-1997); Lucio Gutiérrez (2003-2005); Rafael Correa (2007-2017)
El Salvador	Nayib Bukele (2019-2021)
Guatemala	Jorge Serrano Elías (1991-1993); Álvaro Colom (2008-2012)
Haiti	
Honduras	Manuel Zelaya (2006-2009)
Mexico	Andrés Manuel López Obrador (2018-2021)
Nicaragua	Daniel Ortega (2006-2021)
Panama	Ricardo Martinelli (2009-2014)
Paraguay	Fernando Lugo (2008-2012)
Peru	Alberto Fujimori (1990-2000)
Uruguay	
Venezuela	Hugo Chávez (1999-2013); Nicolás Maduro (2013-2021)

Source: Compiled by the author on the basis of Houle and Kenny 2016; Huber and Schimpf 2016; Ruth-Lovell, Lührmann, and Grahn 2019; Weyland 2020.

In the next section, I analyze how populism in power affects the relationship between horizontal accountability and free and fair elections.

Populism, Horizontal Accountability, and Free and Fair Elections: Hypotheses

As noted in the introduction, there is general agreement that horizontal accountability is requisite for free and fair elections.[63] Checks and balances are frequently mentioned as necessary (although certainly not sufficient) conditions for

63 Morlino, "What is a 'Good' Democracy?"; Merkel and Croissant, "Conclusion: Good and Defective Democracies."

reducing the probability of rigged or unfair elections.[64] The V-Dem Institute offers two indices that allow us to examine the empirical relationship between checks and balances and free and fair elections. The Clean Elections Index (CEI) (v2xel_frefair), which I use as an indicator of free and fair elections, is a 0-1 summary index built on country experts' answers to a set of questions that probe the fairness and cleanliness of elections.[65] As an indicator of checks and balances, I use the V-Dem Horizontal Accountability Index. As described by V-Dem, this 0-1 index "concerns the power of state institutions to oversee the government by demanding information, questioning officials and punishing improper behavior."[66] These institutions include the judiciary, the legislature, and oversight bodies.

Large quantitative studies of populism in power show that it tends to undermine democracy.[67] Studies that rely on medium-N analyses tend to recognize that not *all* populism in power leads to the deterioration of democracy or competitive elections. They therefore prefer to focus on which conditions might create opportunities for populist chief executives to subvert democracy.[68] Studies of specific cases of populism in power obviously tend to pay attention to those where democracy is severely eroded. Only rarely do case studies focus on situations where the worst consequences of populism in power on democracy have been averted.[69]

While Table 1 and some of the small-N[70] and medium-N[71] analyses suggest a variety of relationships between populism in power and the conduct of free and fair elections, the literature quoted above tends to argue that populism in power will directly affect existing levels of democracy and, therefore, the democratic character of elections. Given that my main goal is to determine whether populism in power will have a moderating impact on the relationship between horizontal accountability and free and fair elections, my first hypothesis is framed as a null hypothesis on the direct impact of populism in power on elections when controlled by the effects of horizontal accountability.

Hypothesis 1: *Populism in power will not have a significant impact on the levels of free and fair elections at average levels of horizontal accountability*

Because my interest here is in assessing the influence of populism in power when the functioning of horizontal accountability is at a regional average, I center the horizontal accountability variable at its mean. The question, therefore, is straightforward: What is the individual effect of populism in power on the Clean Elections Index when horizontal accountability has a value equal to its mean?

64 Andreas Schedler, "The Menu of Manipulation," *Journal of Democracy* 13, no. 2 (2002): 36-50, https://doi.org/10.1353/jod.2002.0031.; Fabrice Lehoucq, "Electoral Fraud: Causes, Types, and Consequences," *Annual Review of Political Science* 6, no. 1 (2003): 233-256, https://doi.org/10.1146/annurev.polisci.6.121901.085655.; Sarah Birch, *Electoral Malpractice* (Oxford: Oxford University Press, 2011).

65 The index is built based on the indicators for EMB autonomy (v2elembaut), EMB capacity (v2elembcap), election voter registry (v2elrgstry), election vote-buying (v2elvotbuy), election other voting irregularities (v2elirreg), election government intimidation (v2elintim), non-state electoral violence (v2elpeace), and election free and fair (v2elfrfair) (Michael Coppedge et al., *V-Dem Codebook v12*. Varieties of Democracy (V-Dem) Project, 2022, 69).

66 Ibid., 291.

67 Christian Houle and Paul D. Kenny, "The Political and Economic Consequences of Populist Rule in Latin America," *Government and Opposition* 53, no. 2 (2016): 256-287, https://doi.org/10.1017/gov.2016.25.; Huber and Schimpf, "Friend or Foe?"; Ruth-Lovell, Lührman, and Grahn, "Democracy and Populism, https://doi.org/10.1111/1467-9248.12219.

68 Ruth, "Populism and the Erosion of Horizontal Accountability in Latin America;" Weyland, *Populism's Threat to Democracy*.

69 See Carrión, *A Dynamic Theory of Populism in Power*; Weyland, "How Populism Dies."

70 See, for example, Pappas, *Populism and Liberal Democracy*; Carrión, *A Dynamic Theory of Populism in Power*.

71 See, for example, Weyland, *Populism's Threat to Democracy*.

The argument advanced in this paper is that populism in power tends to moderate the strong impact that effective checks and balances have on the existence of free and fair elections. Therefore, the paper's second main hypothesis is:

Hypothesis 2: *Populism in power will have a moderating impact on the effect that horizontal accountability has on conducting free and fair elections. That is, when populism is in power, checks and balances will be less effective in determining free and fair elections than when populism is not in power*

I test this hypothesis using the interaction term between populism in power (a dummy variable) and horizontal accountability (centered at its mean). The expectation is that the slope of the relationship between horizontal accountability and elections will be much steeper *when populism is not in power* than when it is.

To test these hypotheses, I employ a time-series cross-sectional regression with fixed effects. The total number of observations is 817, of which 153 are coded as populist years (18.8 percent of all observations). I choose a fixed effects model, as a Hausman test for random effects showed that this was the most appropriate strategy. I follow a minimalist modeling strategy to account for control variables. I include as controls only three structural variables: the impact of natural resources extraction (measured as total petroleum, coal, and natural gas production per capita), the average years of education of citizens older than 15, and economic development (measured as GDP per capita). Some of these variables lack data for some years. Except the variable of populism in power (which was hand-coded by the author), all data come from V-Dem dataset Version 12 (2022).

Results and Discussion

Model 1 is the baseline and estimates only the main predictors of interest: populism in power and horizontal accountability (centered at its mean). The three control variables for natural resources extraction, average education, and economic development are also introduced in the baseline model. Again, the dependent variable is the V-Dem Clean Elections Index. This model tests specifically the first hypothesis of this paper. The results are displayed in Table 2. As can be seen, when horizontal accountability is controlled for, populism in power does not have a statistically significant impact on the nature of free and fair elections. This lends support to the paper's first hypothesis.

The results of Model 1 indicate that when the value of horizontal accountability is equal to its mean, the contribution of populism in power to the CEI is 0.079 and is not statistically significant. This confirms our intuition that the presence of a populist leader in government, by itself, does not have an impact on the cleanliness or fairness of elections. Populism in power does not significantly improve the democratic character of elections, nor does it affect them in a negative fashion. To have a negative impact on elections, populism in power needs to take control of state institutions, which entails reducing the existing checks and balances. Of the control variables, the only one that emerges as a strong influence is the level of economic development, which has the expected sign and is statistically significant.

Table 2. Main Results Fixed Effects Model | Dependent Variable = Clean Elections Index

	(1)	(2)	(3)	(4)
VARIABLES	Fixed Effects	Fixed Effects	Fixed Effects	Fixed Effects
Populism in power	0.079	0.080	0.056	0.061
	(0.038)	(0.040)	(0.033)	(0.036)
Horizontal accountability (c)	0.852***	0.936***	0.672***	0.689***
	(0.091)	(0.090)	(0.133)	(0.146)
Populism in power*horizontal accountability (c)		-0.488***	-0.421**	-0.458***
		(0.132)	(0.122)	(0.140)
Freedom of association (thick index)			0.313*	0.196
			(0.129)	(0.118)
Legislative party cohesion				0.081**
				(0.025)
Political polarization				-0.038
				(0.030)
Natural resources (oil, coal, gas) income per capita	-0.000	-0.000	-0.000	-0.000
	(0.000)	(0.000)	(0.000)	(0.000)
Average years of education (15+)	0.037	0.018	0.009	0.029
	(0.030)	(0.031)	(0.027)	(0.027)
GDP per capita	0.025*	0.024*	0.023*	0.011
	(0.010)	(0.009)	(0.009)	(0.009)
Constant	0.177	0.300	0.145	0.106
	(0.174)	(0.171)	(0.185)	(0.197)
Observations	532	532	532	518
R-squared	0.817	0.833	0.846	0.818
Number of countries	19	19	19	19
Country FE	YES	YES	YES	YES

Robust standard errors in parentheses *** p<0.005, ** p<0.01, * p<0.05

Model 2 offers the first test of the second hypothesis. Only the two main effects (populism in power and horizontal accountability) and their interaction term are included in this model alongside the three control variables. The results, once again, emerge as expected. Populism in power, by itself and controlling for the effects of horizontal accountability, does not have a statistically significant influence of the quality of elections. Horizontal accountability, by contrast, is highly statistically significant at the 0.01 level or better. This means that an increase in the values of the horizontal accountability index is associated with a significant increase in the score of the CEI. This is not surprising, since we already know that effective checks and balances are highly correlated with free and fair elections. What is remarkable is that the interaction term between populism in power and horizontal accountability emerges with a negative sign and is statistically significant at the 0.005 level.

This supports H2's expectation that populism in power will moderate the influence of horizontal accountability on free and fair elections. The negative value of the interaction term suggests that the slopes of horizontal accountability and free elections not only are different but also intersect. This means that populist chief executives will interfere with the institutions in charge of overseeing that free and fair elections are conducted flawlessly. The argument underlying H2 is that if populist chief executives are successful in undermining the liberal mechanisms built into existing democracies, then the exercise of popular sovereignty will suffer as a result. When populism is in power, the ability of horizontal accountability to generate free and fair elections is, on average, curtailed.

Models 3 and 4 test the moderating impact of populism in power found in Model 2 by adding two different sets of predictors that could affect the values of the CEI. Model 3 introduces the V-Dem measure of associational life (v2x_frassoc_thick). The variable measures "[t]o what extent parties, including opposition parties, allowed to form and to participate in elections, and to what extent are civil society organizations able to form and to operate freely?"[72]

The extensive literature on social capital argues that a strong associational life is a predictor of the level of democracy. I therefore include a measure of social capital to see how it affects the relationship between our two main predictors and their interaction term. Model 4 is our full model and includes two additional measures that try to ascertain the possible impact of political polarization and legislative-party cohesion on free and fair elections. In recent years, a growing literature has mentioned political polarization as a possible factor that causes or enables the rise of populist leaders.[73] The argument is that polarization generates strong emotional attachments that exacerbate resentments and make compromise more difficult.[74] This could influence elections because polarization is an incentive to rig elections to favor a given party or candidate that is considered unacceptable by the opposing group. The other variable, legislative-party cohesion, asks: "Is it normal for members of the legislature to vote with other members of their party on important bills?"[75] The assumption is that legislative-party cohesion is an indicator of party health, and therefore of the political system as such, making it a positive influence on the quality of elections. The results of Model 4 in Table 2 are displayed graphically in Figure 1.

72 Coppedge et al., *V-Dem Codebook v12*, 47.

73 Cristóbal Rovira Kaltwasser and Paul Taggart, "Dealing with Populists in Government: A Framework for Analysis," *Democratization* 23, no. 2 (2016): 201-220, https://doi.org/10.1080/13510347.2015.1058785.; Pappas, *Populism and Liberal Democracy*; Murat Somer, Jennifer L. McCoy, and Russell E. Luke, "Pernicious Polarization, Autocratization, and Opposition Strategies," *Democratization* 28, no. 5 (2021): 929-948, https://doi.org/10.1080/13510347.2020.1865316.

74 For a view that argues that polarization is a consequence of populism, see Kenneth M. Roberts, "Populism and Polarization in Comparative Perspective: Constitutive, Spatial and Institutional Dimensions," *Government and Opposition* (2021): 1-23, https://doi.org/10.1017/gov.2021.14.

75 Coppedge et al., *V-Dem Codebook v12*, 96.

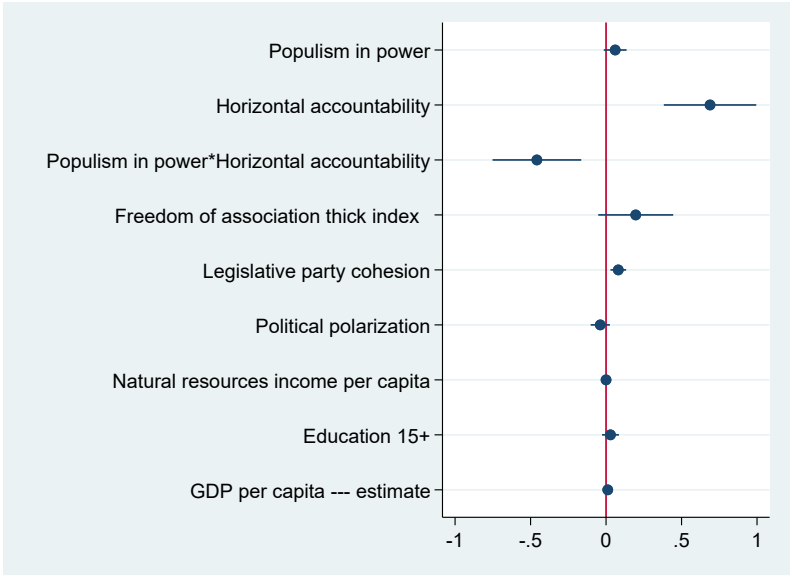

Figure 1. Main Results Fixed Effects Models | Dependent Variable = Clean Elections Index

Figure 2 (also based on Model 4, Table 2) shows the substantive effects of horizontal accountability (centered at its mean) on the scores of the Clean Elections Index. The values of the X-axis range from one standard deviation below the mean (-.285) to one standard deviation above the mean (+.285). This figure confirms a strong positive association between the values of horizontal accountability and the scores of the CEI. It clearly suggests that the liberal component (checks and balances) goes hand in hand with the popular sovereignty component (free and fair elections).

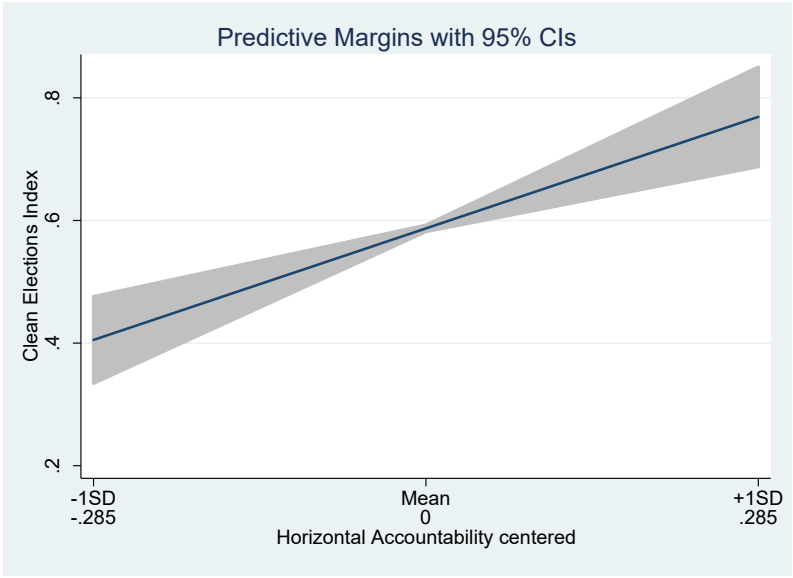

Figure 2. Substantive Effects of Horizontal Accountability (centered) on Clean Elections Index

Both Model 3 and Model 4 also confirm the paper's main hypothesis, namely that populism in power moderates the positive impact of horizontal accountability on free and fair elections. In all models, the interaction term emerges as highly statistically significant and with a negative sign. This means that populism in power has a moderating impact on the effectiveness of existing checks and balances at guaranteeing that democratic elections will be held. The difference between populism and liberal checks on state power when it comes to the exercise of popular sovereignty, as manifested in free elections, is displayed graphically in Figures 3 and 4 (using the results of Model 4, Table 2).

Figure 3 displays the predictive margins (partial effects) of populism in power at one standard deviation below the mean of the centered horizontal accountability variable (-0.285), at the mean value (0), and at one standard deviation above the mean of horizontal accountability (.0285). The slopes intersect because under "no populism in government" the effect of horizontal accountability on the CEI scores is stronger than under "populism in power." In fact, the slope of the relationship between horizontal accountability and free and fair elections under "populism in power" (solid line) is flatter than the slope under "no populism in power" (dashed line). This suggests that at low levels of horizontal accountability, populist candidates require a higher level of free and fair elections to come to power—higher than a non-populist candidate needs—but once in power, populist governments do not strengthen the quality of elections as significantly as non-populist governments do.

Another way to appreciate the moderating effect of populism in power on the relationship between liberal constraints and free and fair elections is shown in Figure 4. This figure displays the average marginal effects of horizontal accountability on the scores of the Clean Elections Index in the absence or presence of populism in power. The information is very clear: switching from "no populism" to "populism in government" reduces the average marginal effect that horizontal accountability exerts on the conduct of free and fair elections (from 0.689 to just 0.230). This means that the positive role liberal institutions play in securing elections as a manifestation

of the popular will tends to be undermined when populism is in government. Clearly, when in power, populism on average disrupts the ability of checks and balances to provide a level playing field that would result in free and fair elections.

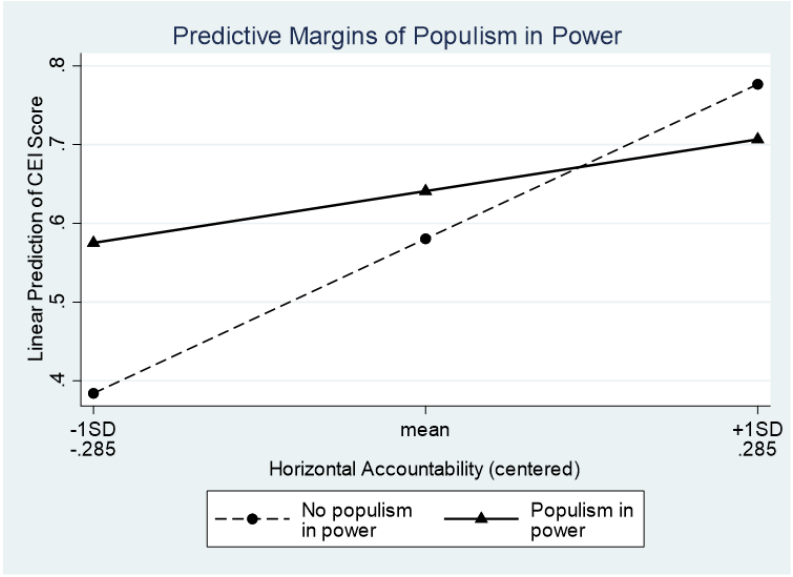

Figure 3. Predictive Margins of Populism in Power on CEI at Representative Values of Horizontal Accountability

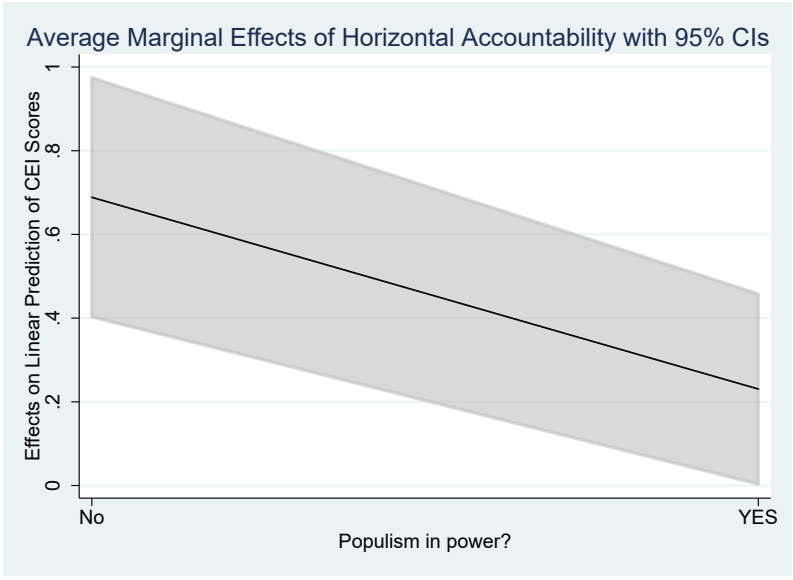

Figure 4. Average Marginal Effects of Horizontal Accountability on CEI Scores under Conditions of Populism in and out of Power

Robustness Checks

To test the robustness of the paper's main findings, I re-estimate Model 4 adding additional controls related to the condition of civil rights in the country and additional measures of social modernization.[76] These additional variables likewise come from V-Dem dataset version 12: the civil liberties index (v2x_civlib), a measure of existing educational inequality for people aged 15 and older (e_peedgini), the average years of education among citizens older than 15 and older (e_peaveduc), and life expectancy at birth (e_pelifeex). The coefficients of the new model, with these additional variables, are displayed graphically in Figure 5. The results confirm the initial findings: first, populism in power does not emerge as a statistically significant predictor of scores on the CEI; second, horizontal accountability is again a strong positive and statistically significant influence on CEI scores; third, as hypothesized in this study, the interaction term for populism in power and the index for horizontal accountability is negative and statistically significant. This confirms that populism in power plays a significant role in ameliorating the impact of checks and balances on the conduct of free and fair elections. Of the other additional variables, legislative-party cohesion emerges as a positive predictor of CEI scores, as it did in Model 4.

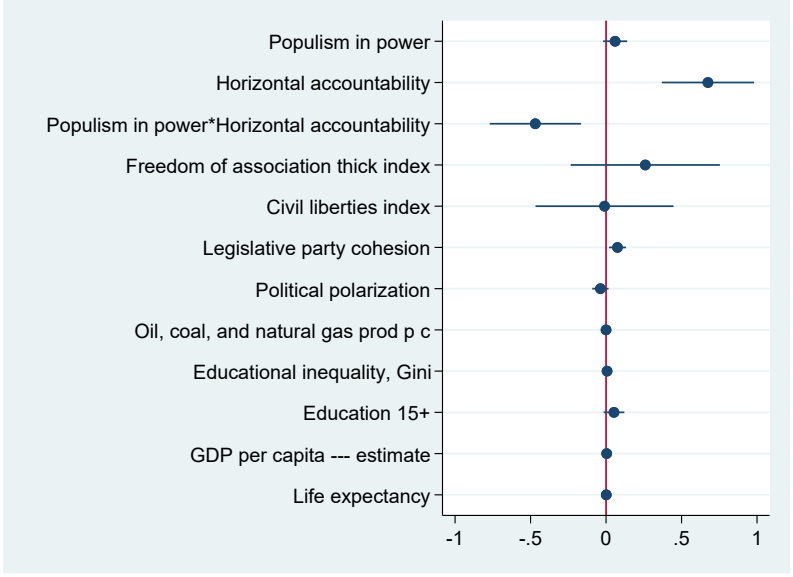

Figure 5. Main Results Fixed Effects Models | Dependent Variable = Clean Elections Index (Robustness Test)

Figure 6 shows that the average marginal effects of horizontal accountability remain relatively unchanged in relation to Figure 5. The results indicate that the average marginal effect of horizontal accountability of free and fair elections is 0.675 when there is no populism in power, compared to just 0.206 when populism is in government.

76 To test whether the main results were influenced by the decision to use fixed effects, I re-run Model 4 using random effects. The results were similar, with one exception: populism in power emerged as having a positive and statistically significant effect (0.069 at p=0.03) on CEI scores. The other findings were confirmed: horizontal accountability having very strong positive effects (at 0.001 or lower), and its interaction term with populism in power emerging with a negative sign, as expected, and achieving statistical significance at 0.001 or better.

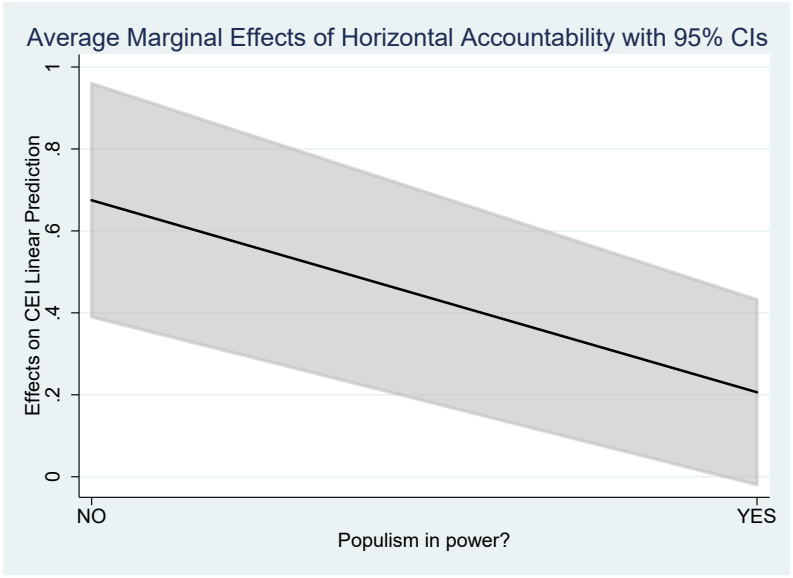

Figure 6. Average Marginal Effects of Horizontal Accountability on CEI Prediction under Conditions of Populism in and out of Power (Robustness Test)

Concluding Thoughts

Consistent with the theoretical contributions made by Rummens and by Panizza,[77] this paper shows that there is a clear empirical relationship between the liberal and the democratic (popular sovereignty) dimensions of democracy. I show that a significant practice associated with constitutional liberalism—namely, the presence of checks and balances and horizontal accountability—is a central mechanism to guaranteeing the effective exercise of popular sovereignty, as manifested in the conduct of free and fair elections. *Contra* those who extol the democratic virtues of populism, the paper finds no evidence that populism in power does more than non-populist governments to increase the democratic exercise of popular sovereignty, at least as measured by the ability of people to select their representatives in free and fair elections.

However, nor does the paper find any evidence that populism in power, by itself and directly, is a cause of the decline of free and fair elections. As some have shown using different approaches and cases, populism in power can affect the effective functioning of democracy and free elections, but that happens under given conditions, and the effect is not universal. This does not mean, however, that the presence of populism in power is without problems. This paper shows that when a populist chief executive is in charge, the positive effects of horizontal accountability on free and fair elections are attenuated. The effect is consistent, statistically significant, and robust.

The general conclusion is that there is no democratic trade-off to be obtained with populism in power: when the liberal constraints on the exercise of power are weakened, so too are the foundations that guarantee the free and fair expression of popular sovereignty. The practice of democracy in Latin America since 1979 shows that electoral democracy (defined as holding free and fair elections) improves when the mechanisms of horizontal accountability are effective. The liberal and

77 Rummens, "Populism as a Threat to Liberal Democracy"; Panizza, "Introduction: Populism and the Mirror of Democracy."

the democratic cannot be disentangled in practice: lower levels of horizontal accountability are associated with lower scores on free and fair elections, while higher horizontal accountability is associated with higher values on the V-Dem Clean Elections Index. This study lends support to what such scholars as Urbinati, Arato and Cohen, and Müller, among others, suggest: that illiberal political power's quest to represent a mythical or "authentic people" can lead down the path to authoritarian government.[78]

Since populism in power moderates the impact of horizontal accountability on free elections, we can also conclude that popular sovereignty suffers in the presence of illiberalism. Populism, as I argue at the outset, is illiberal on two grounds: its claim to a monopoly on representation and its instrumental use of majorities to change constitutional constraints on the power of the executive. This illiberalism does not enhance the democratic dimension; on the contrary, it can generate antidemocratic consequences by leading to the delegitimization of opponents and the undermining of horizontal accountability. Empirically, as well as conceptually, populism cannot enhance democracy at the expense of liberalism. This paper has not examined the impact of populism in power on regime change, nor has it discussed the conditions that could lead to the effective removal of liberal constraints on a populist chief executive. But the findings suggest that when these liberal constraints are compromised, so too are the foundations of free and fair elections.

78 Urbinati, *Me the People*; Arato and Cohen, *Populism and Civil Society*; Müller, *What Is Populism?*

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Illiberalism in Brazil: From Constitutional Authoritarianism to Bolsonarism

EMILIO PELUSO NEDER MEYER

Abstract

This article provides an overview of the juridical discourse that acted as a basis for the historical development of Brazilian illiberalism. Without setting aside the question of an inner tension between liberal and illiberal theories of Brazilian constitutionalism, but focusing primarily on antiliberal and illiberal positions, this article presents the leading theories of Brazilian constitutional scholars. It shows that the seeds of illiberalism were planted under the flag of a specific type of authoritarian constitutionalism, which was developed under different constitutions, but which mainly refers to the 1937 Constitution. It discusses the theories of movements such as integralismo, the legal thought of authors such as Francisco José Oliveira Viana and Francisco Campos, and concepts such as national security. The article also explores, under the 1988 Constitution, the authoritarian reminiscences that favored the structuring and diffusion of the current Bolsonarist illiberalism. Finally, it debates the chances for the endurance of illiberalism in Brazil and whether or not it could benefit from wider popular acceptance.

Keywords: Illiberalism, Brazil, constitutionalism, constitutional history, authoritarianism

Emilio Peluso Neder Meyer
Associate Professor of Constitutional Law, Federal University of Minas Gerais, Brazil
emiliopeluso@ufmg.br; emiliopeluso@gmail.com
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Illiberalism is not the same as authoritarianism. Illiberalism assumes that beyond competitive elections, there is a certain degree of liberties and constitutional institutions functioning inside a political regime.[1] Authoritarian regimes, however, can not only suspend elections or blatantly manipulate them, they can exercise power without proper constraints. Illiberalism, meanwhile, can grow in established democracies. Although Brazil still must deal with the sensitive legacy of the 1964–1985 military dictatorship, it is nonetheless a democracy that has been on its way towards consolidation—or at least it was until the presidency of Jair Bolsonaro. In this sense, one can see that liberal institutions can behave illiberally.

This article takes as its point of reference Laruelle's conception of illiberalism as an ideology formed in the past two or three decades, which updates classically conservative terms, draws on far-right populist conceptions of politics, and points to how illiberalism criticizes liberal concepts such as institutions and minority rights.[2] Still, this article challenges such presuppositions for the Brazilian case, by attempting to show that the formation of illiberalism in this context depended on the historical development of authoritarianism within the Brazilian concept of constitutionalism. Moreover, the article focuses on how the manipulation of legal institutions and theories helped carve out the current space for illiberalism in Brazil.

In this sense, one can perceive that the "legal resentment" right-wing populists demonstrate against the rule of law appears in the Brazilian context in the form of a continuous necessity to subvert constitutional and legal devices.[3] The authoritarian approach to law is a part of the Brazil's historical constitutional legacy, and it manifests itself currently as a complete manipulation of legal institutions by politicians, legal scholars, and other actors. Although the current constitution does not have any explicitly illiberal provision,[4] thereby allowing Landau to argue that there is not in fact any illiberal constitution to speak of, the nature of illiberal politics is subtler and more diffuse in the ways it undermines the principles of constitutionalism. Brazil's constitutional evolution demonstrates that illiberalism is not a truly novel conception.

Methodologically, this article relies on a body of Brazilian constitutional theory literature that covers different periods of the twentieth century. Authors who clearly defended both illiberal and authoritarian devices in different moments of Brazil's constitutional history show that there is a previous illiberal tradition that paved the way for current perspectives. In this sense, even the supporters of an authoritarian president such as Bolsonaro make their claims based on a previous paradigm. Without getting lost in the weeds of the whole historical development of the subject, this article covers the main historical elements that live on in the thought of these different authors and scholars. At the end of the article, a table that shows the different phases in which these scholars have defended their theories and even engaged in politics helps the reader to navigate the history of Brazilian constitutionalism.

It is important to separate authoritarianism and illiberalism to see how these sets of political, economic, and social practices evolve and how, particularly in Brazil, authoritarian constitutional traditions have paved the way for current illiberal practices. This article begins by debating the ideas of the most relevant jurists who have defended different forms of authoritarianism in Brazil throughout the formation of its constitutional tradition: authoritarian traditions appear as a first

1 András Sajó, Renáta Uitz, and Stephen Holmes, "Preface," in *The Routledge Handbook of Illiberalism*, eds. András Sajó, Renáta Uitz, and Stephen Holmes (Abingdon: Routledge, 2022), xxiv.

2 Marlene Laruelle, "Illiberalism: A Conceptual Introduction," *East European Politics* 38, no. 2 (April 2022), https://www.illiberalism.org/illiberalism-conceptual-introduction/.

3 Paul Blokker, "Populism and Illiberalism," in *The Routledge Handbook of Illiberalism*, eds. András Sajó, Renáta Uitz, and Stephen Holmes (Abingdon: Routledge, 2022), 265.

4 David Landau, "The Myth of Illiberal Democratic Constitutions" in *The Routledge Handbook of Illiberalism*, eds. András Sajó, Renáta Uitz, and Stephen Holmes (Abingdon: Routledge, 2022), 425.

and also a more rudimentary form of government, whereas illiberalism depends on restricting democracy via a sophisticated abuse of law.

Authoritarian constitutionalism is described through the ideas of constitutional scholars who dominated the debate during the 1930s in Brazil during the first presidency of Getúlio Vargas, under what he then called the Estado Novo (new state), which was a form of corporatist dictatorship. Under the democratic regime that subsequently emerged, national security doctrine appears as an important counterpoint to call for democratization. The later military dictatorship of 1964–1985 also relied on the help of legal scholars who aimed at legitimizing outright autocracy. Even with the transition to democracy made possible by the 1988 Constitution, the conservative-authoritarian views of an important number of constitutional scholars still live on even today, fully 35 years later. Bolsonaro used both the discourses of opposition to traditional politics and anticorruption rhetoric to pave his way to power. He could also count on the help of a culture of illiberalism because of long-standing authoritarian conceptions of politics mixed with the readiness of jurists to assist in legitimizing his politics.

Authoritarianism as the Gateway to Illiberalism

The first Brazilian Constitution, enacted in 1824, provided for a fourth branch of government known as the "moderating power" (or, alternatively, "moderating branch")[5] which was placed in the hands of the monarch for managing crises between the three main branches. The moderating power was the institutionalization, albeit with distortions, of an idea originating with one of the founding fathers of modern political liberalism, the Swiss-French political philosopher Benjamin Constant.[6] Such an institutional structure stimulated debates among those who saw the moderating power as a mere monarch's prerogative. This was the view held by figures as the 19th-century scholar and politician Braz Florentino Henriques de Souza, along with others who advocated a broader perspective that could include the legislative General Assembly in managing that power, such as Prime Minister Zacarias de Góis e Vasconcellos.[7] This first debate gives a glimpse of the constant tension between conservatism and liberalism that would persist throughout Brazilian constitutional history. The moderating power, in the way that it was applied under the 1824 Constitution, had an authoritarian conception that would be recovered throughout Brazilian constitutional history—even resurfacing in the 2020s to refer to a supposed right of the armed forces to resolve disputes between the three main branches of government.

Rosenfield argues that under the First Republic (1891–1930),[8] when the 1891 Constitution was in force and liberal ideas prevailed among constitutional scholars, violations of election law paved the way to modern authoritarianism in Brazil. The successive political crises that engulfed Brazil during the 1910s and 1920s were controlled by decreeing states of emergency that were pragmatically defended

5 The Portuguese term, *poder moderador*, could be translated either way in this context, given that what in English are known as the three "branches" of government are called *poderes* (powers) in Portuguese and other romance languages. Since no identical concept of such a fourth branch exists in the English-speaking tradition, the translation remains in the eye of the beholder.

6 Benjamin Constant, *Political Writings*, trans. and ed. by Biancamaria Fontata (Cambridge, UK: Cambridge University Press, 1988); Helena Rosenblatt, "The History of Illiberalism," in *The Routledge Handbook of Illiberalism*, eds. András Sajó, Renáta Uitz, and Stephen Holmes (Abingdon: Routledge, 2022), 20, https://doi.org/10.4324/9780367260569.

7 Emilio Meyer, *Constitutional Erosion in Brazil* (Oxford: Hart Publishing, 2021), 158; Braz Souza, *Do Poder Moderador: Ensaio de Direito Constitucional* (Recife: Typographia Universal, 1864); Maria Repolês, *Quem Deve Ser o Guardião da Constituição? Do Poder Moderador ao Supremo Tribunal Federal* (Belo Horizonte: Mandamentos, 2018); Menelick Neto, *A Sanção no Procedimento Legislativo* (Belo Horizonte: Del Rey, 1992), 73.

8 Luís Rosenfield, *Revolução Conservadora: Genealogia do Constitucionalismo Autoritário Brasileiro (1930–1945)* (Porto Alegre: EdiPUCRS, 2021), 47.

by means of authoritarian readings of the Constitution that criticized liberal republicanism as advocated by authors such as Rui Barbosa and Pedro Lessa.[9]

Before the 1930s, authors such as Alberto Torres would defend not only the exercise of a moderating power under the First Republic, but that the state had a prominent role in the relationship between society and institutions.[10] Torres influenced the debate on how to deal with the financial and political crisis of the 1920s, proposing sweeping reforms to the 1891 Constitution in a broad range (which would be adopted in 1926) and fighting what Oliveira Viana described as constitutional idealism.[11] Jurists who were more prone to support liberalism agreed upon the reforms, but without the depth of conviction argued by more conservative thinkers.[12] In the end, the constitutional reforms of 1926 led to the potential suspension of habeas corpus during crisis situations, the strengthening of the executive branch and the placing of severe restrictions on judicial review, a main theme that would last for the years to come.

One of the scholars debating at the time, the jurist and diplomat Francisco Cavalcanti Pontes de Miranda, who would be the Brazilian jurist most quoted by judges in 2019,[13] mentioned that one of the problems that the reforms needed to address was the racial question: he referred to states that adopted extreme measures such as the castration of abnormal people. Brazil would suffer for sheltering the blind, imbeciles, and people who suffer from physical disease, in a clear eugenic position defended by Pontes de Miranda.[14] Such was the mood of the debates that preceded the years of the first dictatorship.

In the 1930s, Brazilian politics was in a state of agitation: a revolution did not recognize the election of Júlio Prestes to the presidency and supported Getúlio Vargas in seizing power in 1930. The 1891 Constitution was simply revoked by Decree 19.398 of 1930, issued by a provisional government led by Vargas.

In 1932, one of the bloodiest civil conflicts in Brazil pressed Vargas to organize the Constituent Assembly of 1933–1934, which led to the republican 1934 Constitution.[15] The constituent assembly enacted the 1934 Constitution in a process that counted on representatives of particular classes that evoked the corporatist proposals. Also, social rights appeared in the 1934 Constitution in line with the 1919 Weimar Constitution. As in Germany, however, the social and liberal democratic path would be interrupted. In 1935, a fabricated Communist plan to seize power gave Vargas the pretext he needed to mete out harsh the political repression. Vargas finally led a

9 See Rui Barbosa, *Obras Completas* (São Paulo: Hunter Books, 2016); Pedro Lessa, *Do Poder Judiciário: Direito Constitucional Brasileiro* (Rio de Janeiro: Livraria Francisco Alves, 1915).

10 See Alberto Torres, *O Problema Nacional Brasileiro: Introducção a um Programma de Organização Nacional* (Rio de Janeiro: Ed. Nacional, 1938).

11 See Francisco José Oliveira Viana, *O Idealismo da Constituição* (Rio de Janeiro: Terra do Sol, 1927).

12 Rosenfield, *Revolução Conservadora*, 107.

13 Luiz Vianna, Maria Carvalho and Marcelo Burgos, *Quem Somos: A Magistratura que Queremos* (Rio de Janeiro: Associação dos Magistrados Brasileiros, 2018), 109.

14 See Pontes de Miranda, "Preliminares para a Revisão Constitucional," in *À Margem da História da República*, ed. Vicente Cardoso (Brasília: Editora da Universidade de Brasília, 1981), 1–10; see also Rosenfield, *Revolução Conservadora*, 128.

15 It should be noted that Hans Kelsen, one of the most important philosophers and jurists of the 20th century, issued a very pragmatic opinion on who had the power to convene the constituent assembly at the time: the leaders of the 1930 revolution that commanded the provisional government. Kelsen had been invited by *Política: Revista de Direito Público, Legislação Social e Economia*, a Brazilian scientific journal, to provide an opinion on the constitutional process that led to the 1934 Constitution. This fact indicates that Brazilian legal scholars, at that time, already had connections with foreign jurists who had an impact on very different legal systems throughout the world. See Gustavo Siqueira, "O Parecer de Kelsen sobre a Constituinte Brasileira de 1933–1934," *Revista Direito & Práxis* 6, no. 11 (November 2015): 354–355; Anditys Matos, " 'Um Governo Revolucionário Possui os Poderes que Quer Possuir': A Teoria Pura do Direito Enquanto Teoria da Violência Diante da Assembleia Nacional Constituinte Brasileira de 1933/34", *Revista da Faculdade de Direito da UFMG*, no. 64 (2014): 67–69, https://doi.org/10.12818/p.0304-2340.2014v64p49.

coup d'état of his own and imposed the new Constitution of 1937, written by one of the leading authoritarian constitutional scholars of the time, Francisco Campos, who saw the constituent power as being connected to the aforementioned 1930 revolution and to the aim of modernizing the country.[16] Campos argued that the 1937 imposed Constitution guaranteed rights while at the same time it preserved the nation—he followed the traditional antiliberal recipe of criticizing any kind of preference for individual rights as running counter to the interest of the nation.[17] In that sense, his brand of antiliberalism is closer to being a kind of authoritarianism, rather than a sophisticated version of illiberalism.

The government of President Getúlio Vargas and the Estado Novo (1930–1945) testified to the prevalence of jurists of a strong authoritarian or antiliberal profile who criticized the traditional way of interpreting the Brazilian constitutional order. Consider that one of the features of antiliberal scholars such as Oliveira Viana, Butler Maciel, and Francisco Campos was to assume a position of constant criticism of the judicial branch, only to later turn around and argue that courts' expanded powers would not be a problem as long as their members were appointed by the illiberal governments they supported.[18] These were the first authors to systematize and aid in shaping the public debate in Brazil in favor of a type of authoritarian constitutionalism—that is, they clearly recognized that democracy should be reformed in favor of effective forms of government that, in the end, would also need to follow the rules of a constitution. This article deepens the research into the main ideas of these Brazilian constitutional scholars in legitimizing Vargas' regime in the 1930s.

Authoritarian Constitutionalism in Brazil

For the purposes of this article I assume, with Frankenberg,[19] that authoritarian constitutionalism presupposes an array of diverse phenomena: (a) an authoritarian political framework that relies on an intermingling of autocratic and democratic devices); (b) a personification of the public good as property by those in power (as seen in preferential treatment for family members and cronies, with severe consequences for the concentration of economic power); (c) a system in which participation is transformed into complicity; and (d) a cult of immediacy as an excuse to curtail debate and avoid deliberations in the course of governance.

In this sense, authoritarianism in its pure form can dispense with constitutionalism altogether, while authoritarian constitutionalism presumes that a constitution is an essential part of public administration and, in an openly declared authoritarian government, subject to manipulation. Anti-liberalism brings together a series of different worldviews that blatantly criticize liberal institutions; illiberalism, in turn, is cynical in not dispensing entirely with liberal institutions, but rather constantly manipulating them.

One of the leading figures of Brazilian authoritarian constitutionalism was Oliveira Viana, the author of *Instituições Políticas Brasileiras* (Brazilian Political Institutions).[20] He, along with other Brazilian jurists of his time, was a severe critic of the transplantation of political ideas from the United States and Europe to Brazil: such a migration would be done in prejudice to the creation of an actual "sentiment

16 Rosenfield, *Revolução Conservadora*, 155.

17 Stephen Holmes, "The Antiliberal Idea," in *The Routledge Handbook of Illiberalism*, eds. András Sajó, Renáta Uitz, and Stephen Holmes (Abingdon: Routledge, 2022), 3, https://doi.org/10.4324/9780367260569.

18 See Francisco José Oliveira Viana, *Problemas de Política Objetiva* (São Paulo: Companhia Editorial de São Paulo, 1947); Rosenfield, *Revolução Conservadora*, 71.

19 Günther Frankenberg, "Authoritarian Constitutionalism: Coming to Terms with Modernity's Dreams and Demons," Goethe-Universität Frankfurt am Main Faculty of Law Research Paper no. 3/2018, 11, publikationen.ub.uni-frankfurt.de/files/45807/18_03_RPS.pdf.

20 Francisco José Oliveira Viana, *Instituições Políticas Brasileiras* (Brasília: Conselho Editorial do Senado Federal, 1999).

of the nation."[21] The factor that would prevent the total breakdown of political order before the beginning of the 20th century had been the already mentioned moderating power of the monarch under the 1824 Constitution. After the collapse of that constitution in 1889, the political unity of the people would depend on the regime of a dictatorship, as long as the sentiment of the nation was absent from Brazilian political practices.

The need for changes in the political culture of the Brazilian people could depend not on liberal tools, but instead on authoritarian devices, including constitutional documents.[22] Oliveira Viana recognized, through an analysis of the Soviet experience, that top-down pressure from the state alone would not be enough. Fascist Italy and Nazi Germany, however, had also shown that society cannot simply be ignored by those in power.[23] But, considering the "reality" of the Brazilian people (which Viana depicts as the *povo-massa*, or the mass of the people), it would be necessary to rely on institutions that could protect them against the arbitrary action of the traditional elitist power holders.[24]

The 1930s saw the consolidation of a debate between liberal-democrat jurists and authoritarians of different stripes that would result in victory for latter, with the Estado Novo following the 1937 coup. While the liberalism of the 1891 Constitution was defended by some Brazilian constitutional scholars, truly fascist proposals were also put forth by other influential Brazilian jurists. Miguel Reale, the University of São Paulo legal philosopher, for instance, inspired by the Italian politician and jurist Alfredo Rocco (one of the main scholars of corporatism), held that people should be seen as the means to the state's social ends.[25] The 1937 Constitution, drafted by Francisco Campos, kept with the issues garnering attention at the time, such as social and economic rights, but did it so by controlling unions and mass participation. Campos believed that Hitler was able to extract from the confusion of the streets the essence of politics for maintaining power over the nation.[26]

A vocal critic of liberalism, Campos argued for the existence of a mass mood (*clima das massa*s), in which a growing tension would emerge between liberal methods of democracy and irrational processes of political integration.[27] For him, the political crises of liberalism went to the very heart of democracy and called for the intervention of totalitarianism, not the other way around. Campos saw the 1930s as setting the stage for a general "libertine climate."[28] In the face of the supposedly critical situation that Brazil was confronting in those times, it would be the duty of a statesman (that is, Getúlio Vargas) to take extraordinary measures, such as the 1937 coup.[29]

In such a general justification of Vargas' policies, it is no surprise that Campos would see, in 1937, the continuity of the revolution that started in 1930: in other words, the so-called revolution of 1930 was the basis for unilaterally imposing a dictatorial constitution in 1937. And, of course, he saw no problem later on in also calling the coup of 1964 a revolution, and in writing what came to be called Institutional Act no. 1, which was an attempt to legitimize the break with democratic rule. Limiting discussion to issues like universal suffrage, constitutional guarantees, and public liberties would be seen as adequate for the 19th century, but was already an outdated

21 Maria Repolês, *Quem Deve Ser o Guardião da Constituição? Do Poder Moderador ao Supremo Tribunal Federal* (Belo Horizonte: Mandamentos, 2018), 77.

22 Oliveira Viana, *Instituições Políticas Brasileiras*, 448.

23 Oliveira Viana, 460.

24 Oliveira Viana, 98.

25 Rosenfield, *Revolução Conservadora*, 181.

26 Rosenfield, 195.

27 Francisco Campos, *O Estado Nacional: Sua Estrutura, Seu Conteúdo Ideológico* (Brasília: Conselho Editorial do Senado Federal, [1935] 2001), 28.

28 Campos, *O Estado Nacional*, 31.

29 Campos, 40.

approach by the 1930s. If, on one hand, the state had expanded its activities in the 20th century, the legislative branch, on the other hand, would not be up to the task of taking on such new functions, with the legislators being obliged to delegate their powers.[30] And if the new order was characterized by its approach to matters such as social rights, the question of creating a new and more robust form of state power should be the primary concern of a constitution.

In terms of economics, taking some of its cues from Fascist Italy, corporatism would give substance to an authoritarian conception of democracy in which technical representation could serve as a substitute for political representation. It is interesting that Campos argued that liberalism could led to Communism through the government takeover of economic life: although the idea of *Homo economicus* would be important several decades later as a critique of authoritarianism in the form of neoliberalism,[31] the confusing writings of Campos formed the basis for a general criticism of congressional representation, in the Schmittean sense.[32]

It is interesting that authoritarian constitutionalism would also present itself as an alternative to the Brazilian version of fascism, known as *integralismo* (integralism). Brazilian integralism was founded in the 1920s by a self-declared admirer of Italian Fascism, Plínio Salgado, and was based on the principle of authority, on religious grounds, and on the importance of family and the homeland.[33] Integralists would wear a green uniform, which led to their being known as "green shirts." One of integralim's main intellectual leaders was the aforementioned Miguel Reale, who would become a very influential legal philosopher and one of the main authors of the current Brazilian Civil Code of 2002. Reale argued that the nation was an ethical, political, economic, and cultural body; that nationalism was the backbone of integralism; that liberalism would not be able to capture the essence of the people's aspirations that define democracy; that political parties would be unneeded in Brazil; and that families and corporations would be among the most important elements of democracy.[34]

Integralists were clearly anti-Communist and they supported the 1937 coup. However, in 1938, they unsuccessfully conspired to overthrow Vargas, and the integralist leaders were forced to leave the country. In the 21st century, elements reminiscent of the group would be recycled through organizations such as the Frente Integralista Brasileira (Brazilian Integralist Front), with some of its members being elected to positions on city councils. The movement was important for the radicalization of political discourse, especially in the 2018 elections.

The 1937 Constitution conferred upon the president a series of different functions, centralizing Brazilian politics to restrict the powers of states in the federation. It allowed the president to issue legislation by decree in the face of the dissolution of Congress throughout the remainder of Vargas' dictatorship, from 1937 until 1945. Restrictions on political rights and civil liberties prevailed. The scholar Almir de Andrade explicitly qualified Brazilian democracy of the time as substantially antiliberal.[35] The legislation that was issued by President Vargas would remain on the books even to the present day: the Criminal Code, the Criminal Procedure

30 Campos, *O Estado Nacional*, 55.

31 Wendy Brown, *In the Ruins of Neoliberalism: The Rise of Antidemocratic Politics in the West* (New York: Columbia University Press, 2019).

32 In the 1920s, the Nazi political theorist Carl Schmitt became one of the most vocal critics of representative democracy, pointing out several of its deficiencies: a government of amateurs, cause for a prolonged crisis, the banality of parliamentary debates, the misuse of immunities, the daily order of business, and so on. Carl Schmitt, *The Crisis of Parliamentary Democracy* (Cambridge, Mass.: MIT Press, [1923] 1988), 19.

33 Leandro Gonçalves and Odilon Caldeira Neto, *O Fascismo em Camisas Verdes: Do Integralismo ao Neointegralismo* (São Paulo: FGV Editora, 2020); Leandro Gonçalves and Odilon Caldeira Neto, *Fascism in Brazil: From Integralism to Bolsonarism* (Abingdon: Routledge, 2022).

34 Miguel Reale, *Obras Políticas: Tomo III* (Brasília: Editora Universidade de Brasília, 1983), 16.

35 Rosenfield, *Revolução Conservadora*, 283.

Code, and part of the body of labor law have all survived different political regimes. In this sense, although the 1937 Constitution created a state with weak levels of institutionalism, the same cannot be concluded of Vargas' decree laws. One of the reasons for the success of these bodies of Vargas-era legislation can be linked to the extensive and profound literature produced by jurists who were close to the regime: their technical abilities helped forge long-lasting rules.[36] Concerning the judicial branch under the 1937 Constitutional structure, there was also severe criticism by these authoritarian scholars for it being an oligarchy and an extension of the former moderating power of the 1824 Constitution.

Interestingly, Campos created a way of preventing courts and judges from becoming a problem for Estado Novo projects. Without eradicating the courts' judicial or constitutional review function, the 1937 Constitution provided that a judicial ruling that invalidated a statute could be declared without effect if, in the view of the president, it was in accordance with the common good and if Congress agreed so by a vote of a two-thirds majority in both chambers. Congress, however, remained closed for the entirety of Vargas' regime. Campos used to say that judicial review was a unique prerogative of American constitutionalism, created by jurists who belonged to the past and intending to impede or moderate popular demands.[37] In his view, judicial review would be reminiscent of the monarchical moderating power that would cloud democratic movements. One must recognize that Campos had a genial way of using the constitutional and democratic vocabulary against its very purposes, in ways comparable to present-day elected heads of state's deployment of autocratic legalism.[38]

Santos synthesizes the Brazilian anti-liberal constitutionalism of the 1930s as a form of general criticism of liberal politics and institutions, of the personification of decision-making sovereignty made concrete, of mass mobilisation through irrational arguments by a populist leader, and of the bureaucratization of legislation.[39] One of the underexplored factors is the fact that the Brazilian people have, to a certain extent, supported authoritarian measures throughout Brazil's constitutional history. In the 1930s, the outbreak of the Second World War and the way in which *Varguismo* was able to meet socio-economic demands explain, in part, the acceptance of Vargas' regime. Nonetheless, jurists such as Oliveira Viana and Almir de Andrade were conscious of the explanatory power of social psychology with respect to Brazilian authoritarianism.[40] This is a special consideration for aiming at defining the historical path for Bolsonaro wining the majority of the presidential vote decades later. Long before that, however, there is the need to understand why Brazil returned to being a democracy and why, yet again, democracy would be interrupted.

From what has been stated so far, one can see that elements such as the ever present discussion of a moderating power and the growing involvement of the armed forces in politics, the general line of criticism of liberal democracy's efficacy endured beyond the end of the Estado Novo government. As the next section will show, political crisis still seems to depend on institutions that should be far removed from politics, resulting in less democratization than would otherwise be expected.

Democracy's Return

The end of the Second World War brought with it a general feeling in the developed world of rejection towards autocratic forms of government. In addition to the gradual

36 Rosenfield, *Revolução Conservadora*, 293.

37 Campos, *O Estado Nacional*, 102.

38 Kim Lane Scheppele, "Autocratic Legalism," *University of Chicago Law Review* 85, no. 2 (March 2018), 548, https://doi.org/10.5771/0506-7286-2022-4-528.

39 Rogério Dultra dos Santos, "Francisco Campos e os fundamentos do constitucionalismo antiliberal no Brasil," *Dados* 50, no. 2 (September 2007): 281–323, https://doi.org/10.1590/s0011-52582007000200003.

40 Rosenfield, *Revolução Conservadora*, 273.

decline in the military's support for Vargas in the mid-1940s, one must consider the fact that there was partial support for him to stay in power through the movement called *queremismo*: the workers' movement shouted on the streets that they *wanted* (the verb *querer*, in Portuguese) Vargas to continue in power. The movement did not prevail, and power was seized from Vargas following another coup. The election of his former minister of war, a member of the military rather than a civilian, demonstrates that the imbrication of authoritarianism and the militarization of politics would not quickly disappear.

Another democratic constituent assembly led to the 1946 Constitution, a document that also protected social and economic rights at the same time that it aimed at dismantling authoritarianism. Its provision, however, for the separate elections of president and vice president, produced a state of constant political crisis and the need for political accommodation in the so-called Brazilian coalitional presidential system, a form of government that depended heavily on agreements between both the supporters and opponents of the president—a feature that would return in the 1988 Constitution.[41] The Cold War demanded that Brazilian presidents (Gaspar Dutra, 1946–1951; Getúlio Vargas, again, in 1951–1954; Juscelino Kubitschek, 1956–1961; Jânio Quadros, 1961; João Goulart, 1961–1964) take sides in the conflict, and pressures from the military, the United States government, the Catholic Church, and Brazilian elites created pressures that ultimately led to a coup in 1964.

Throughout the 20th century in Brazil, an extremely important theory of the 1930s was used to curb political opposition in general, and leftist and Communist parties in particular: the doctrine of national security. The first National Security Act (Act 38 of 1935)[42] started with a provision aimed at the protection of 1934 Constitution against attempts to change the form of government by violent means. Throughout the Act, however, provisions for the protection of democracy were mixed with others that criminalized, for instance, the incitement of hatred among social classes. This same dubious feature permeated all other national security acts until the repeal of the National Security Act of 1983 (Act 7.170) by Act 14.197 of 2021,[43] known as the act for the protection against crimes perpetrated against the Constitutional Democratic State (*Estado Democrático de Direito*).

The doctrine of national security was a consolidation of the diverse arguments for the protection of the state against the foreign and, moreover, domestic enemies of the nation. The doctrine had an important influence in the Higher Academy of War (Escola Superior de Guerra), a military think tank that was created during the 1940s and is still active. One of the national security doctrine's leading scholars, Mário Pessoa, argued, alluding to former US Secretary of Defense Robert McNamara, that collective security was a military strategy in a world half-free and half-totalitarian.[44] His main target was not foreign threats to national security, as already mentioned, but the internal conflict in the form of revolutionary war by Communist forces. The armed forces should be politicized to fight that type of threat. The national security doctrine animated public security measures in Brazil (this type of reading

41 Sérgio Abranches, *Presidencialismo de Coalizão: Raízes e Evolução do Modelo Político Brasileiro* (São Paulo: Companhia das Letras, 2018); Thomas Bustamante and Emílio Peluso Neder Meyer, "Legislative Resistance to Illiberalism in a System of Coalitional Presidentialism: Will It Work in Brazil?" *Theory and Practice of Legislation*, (2021): 1–21, https://doi.org/10.1080/20508840.2021.1942370.

42 See Lei no. 38, de 4 de abril de 1935, Câmara dos Deputados website, https://www2.camara.leg.br/legin/fed/lei/1930-1939/lei-38-4-abril-1935-397878-republicacao-77367-pl.html.

43 See the Brazilian presidential website, Presidência da República, Casa Civil, Subchefia para Assuntos Jurídicos: http://www.planalto.gov.br/ccivil_03/leis/l7170.htm, and http://www.planalto.gov.br/ccivil_03/_Ato2019-2022/2021/Lei/L14197.htm#art4.

44 Mário Pessoa, *O Direito da Segurança Nacional* (Rio de Janeiro: Biblioteca do Exército; Revista dos Tribunais, 1971), 99.

was not reformed under the 1988 Constitution),[45] but mainly, it acted as part of the legitimization the arguments in support of the 1964–1985 dictatorship.

Dictatorship, Not Illiberalism

The 1964 coup, as already mentioned, had a judicial façade in the form of the so-called Institutional Acts. Campos wrote the preamble of Institutional Act 1 of 1964 using constitutional law language to support his aims.[46] The coup was described as a revolution. This revolution made use of a constituent power, its most radical and expressive form of self-legitimation. The revolution could shape norms without any preconditions and the leaders of such a revolution would be the commanders of the armed forces.

The revolution would need to be institutionalized in the form of the act Campos was helping to draft. One of the aims of the revolution was to contain the Bolshevist wave: to do so, contradictorily, the so-called revolution kept the 1946 Constitution alive and conceded that Congress could carry on its work. With the help of another jurist, Carlos Medeiros e Silva, Francisco Campos created a legal document, not provided for in the 1946 Constitution, to set the agenda of the regime.[47]

The coup was supported by different sectors of the Brazilian elite, including the Brazilian Bar Association (Ordem dos Advogados do Brasil: OAB). An effective form of propaganda raised against the specter of Communism, as personified by the deposed President João Goulart, helped support the coup. Soon enough, however, several jurists would come to see that they had made a huge mistake and needed to start opposing the dictatorship.

Firstly, the Supreme Court did not control the first steps of the authoritarian regime; but the Court became important in ruling on writs of habeas corpus to free students and governors, a move that would lead the regime to draft Institutional Act 2 of 1966, by which it packed the Supreme Court and compromised judicial independence.[48] Again, one can see that the tensions between illiberalism and anti-liberalism were present in different stages of Brazil's constitutional history. For the purposes of this article, however, it is important to highlight the role of jurists who blatantly supported illiberal and anti-liberal positions in order to provide a patina of legitimacy to them.

Alfredo Buzaid, for instance, collaborated on the drafting of one of the most antiliberal legal documents in Brazilian history, Institutional Act 5 of 1968,[49] as well as Decree Law 1.077 of 1970, which regulated official censorship.[50] He was a former integralist, a law professor at the University of São Paulo (USP), a minister of justice, and was appointed to the Supreme Court by the dictatorship. For Buzaid, what he also saw as

45 See Kees Koonings, "Political Orientations and Factionalism in the Brazilian Armed Forces, 1964–85," in *The Soldier and the State in South America*, ed. Patricio Silva (Hampshire: Palgrave Macmillan, 2001), 131; Maria Pia Guerra, *Polícia e Ditadura: A Arquitetura Institucional da Segurança Pública de 1964 a 1988* (Brasília: Ministério da Justiça e Cidadania, 2016).

46 See the Brazilian presidential website, Presidência da República, Casa Civil, Subchefia para Assuntos Jurídicos: http://www.planalto.gov.br/ccivil_03/ait/ait-01-64.htm.

47 Danilo Lima, "Legalidade e Autoritarismo: O Papel dos Juristas na Consolidação da Ditadura Militar de 1964," (PhD diss., Universidade do Vale do Rio dos Sinos, 2018), 96; Marcos Napolitano, *1964: História do Regime Militar Brasileiro* (São Paulo: Contexto, 2014), 80.

48 See the Brazilian presidential website: http://www.planalto.gov.br/ccivil_03/ait/ait-02-65.htm.

49 See the Brazilian presidential website: http://www.planalto.gov.br/ccivil_03/ait/ait-05-68.htm.

50 The decree law was a form of legislation issued by the president under a state of emergency. It was first provided for in the 1937 Constitution and had a prominent role at that time since Congress was dissolved throughout Vargas' first presidency, when he effectively ruled as a dictator. It was also widely utilized during the 1964–1985 military dictatorship. The 1988 Constitution replaced the decree law with provisional measures, which have similar features but also greater controls.

a revolution (the 1964 military coup) had the objective of reducing politics to a mere technocratic activity, as a direct outgrowth of his integralist past.[51]

Hely Lopes Meirelles, who was Public Security Secretary for the state of São Paulo when the dictatorship organized the political repression campaign known as Operation Bandeirante, was a well-known administrative lawyer. One of his books has even stood the test of time as a major point of reference even after democracy was restored, being continually reprinted even after his death.[52] In 1976, quoting a manual from the Higher Academy of War, he argued that development and national security should guide the constitution and statutory legislation against the antagonism of their opponents and the excesses of individual rights.[53] His rhetoric evokes Francisco Campos writings and shows the ties of these scholars to the central organs of the military regime.

Manoel Gonçalves Ferreira Filho, also a long-time professor at the University of São Paulo and someone who held positions in the São Paulo state government during the military dictatorship of 1964–1985, published a book in which he argued for a concept of a democracy only in feasible terms.[54] In the same tone of his predecessors from the 1930s, he criticized general elections for the presidency and the system of political parties in Brazil. He also qualified the 1964 coup as a revolution.[55]

Several other law professors contributed directly to the military dictatorship of 1964–1985 and paved the way for the formation of a judicial elite with a conservative profile: Themístocles Cavalcanti,[56] Clóvis Ramalhete,[57] and others.[58] The report of the National Truth Commission, dedicated to investigating the human rights violations that occurred during the military dictatorship, even has a specific chapter dedicated to the role of the judicial branch in both controlling, but also coping with, the repressive apparatus.[59] The findings give plausibility to the argument made by Anthony W. Pereira that, compared to other Latin American countries, Brazil had a more legalized system of repression, mainly using military courts to prosecute and incarcerate the dictatorial regime's opponents.[60]

The strength and endurance of these different ways of conceiving of political systems in Brazil created a burden that spanned several generations. They were always counterbalanced by civil society movements (such as the one that called for an amnesty only for political opponents during the 1964–1985 dictatorship) as well as the role of lawyers and the Brazilian Bar Association (which supported the coup but changed sides few years later) both in and out of court. As with any part of the public sphere, there was not a monolithic approach to interpreting the two dictatorial

51 Danilo Lima, "Legalidade e Autoritarismo: O Papel dos Juristas na Consolidação da Ditadura Militar de 1964" (PhD dissertation, Universidade do Vale do Rio dos Sinos, 2018), 96; Marcos Napolitano, *1964: História do Regime Militar Brasileiro* (São Paulo: Contexto, 2014), 184. See also Alfredo Buzaid, *Rumos Políticos da Revolução Brasileira* (Brasília: Ministério da Justiça, 1970).

52 Hely Lopes Meirelles, *Direito Administrativo Brasileiro*, 44th edition (São Paulo and Salvador: Malheiros e Juspodivm, 2019).

53 Hely Lopes Meirelles, "O Poder de Polícia, o Desenvolvimento e a Segurança Nacional," *Revista de Direito Administrativo*, no. 125 (1976): 13.

54 Manoel Gonçalves Ferreira Filho, *A Democracia Possível* (São Paulo: Saraiva, 1979).

55 See Manoel Gonçalves Ferreira Filho, *O Poder Constituinte* (São Paulo: Saraiva, 1985).

56 Themístocles Cavalcanti, "Introdução à Análise da Constituição de 1967: O Esquema Político da Constituição," in *Coleção Constituições Brasileiras, vol. VI: 1967*, 3rd edition (Brasília: Senado Federal, 2012).

57 Clóvis Ramalhete, "Revolução Como Fonte do Direito: Apontamentos de Teoria Jurídica das Revoluções," *Revista de Informação Legislativa*, vol. 11, no. 42 (April, 1974): 99–114.

58 Danilo Lima, *Legalidade e Autoritarismo: O Papel dos Juristas na Consolidação da Ditadura Militar de 1964*, PhD Thesis (São Leopoldo: Universidade do Vale do Rio dos Sinos, 2018).

59 Comissão Nacional da Verdade, *Relatório Final*, ch. 17, "O judiciário na ditadura" (Brasília: CNV, 2014), http://cnv.memoriasreveladas.gov.br/images/documentos/Capitulo17/Capitulo%2017.pdf.

60 Anthony W. Pereira, *Political (In)Justice: Authoritarianism and the Rule of Law in Brazil, Chile, and Argentina* (Pittsburgh: University of Pittsburgh Press, 2005).

eras—and besides, the democratic interludes gave Brazilian constitutionalism a nuanced character. By the time the constituent assembly of 1987–1988 was called, the era of antiliberal jurists had passed, and many of them had to concede to the new democratic 1988 Constitution. Nonetheless, the tension between liberalism and antiliberalism was still in place and it left space for interpretations that would not align with the democratic features of the 1988 Constitution. Consider, for instance, that it was the political pressure from Supreme Court justices in dictatorial times that prevented the creation of a distinct constitutional court—with new members and above the Federal Supreme Court—by the new constitution.[61] Pontes de Miranda, who died in 1979, and Hely Lopes Meirelles, who died in 1990, are still among the scholars whom judges cite the most.[62]

The 1988 Constitution and the Rise of Illiberalism

The 1988 Constitution has a clear democratic backbone and it paved the way for the stabilization of institutions and the prevention of coups in Brazil, even in light of the frustrated coup attempt on January 8, 2023. Although Brazilian institutions needed to deal with two impeachment processes that led two presidents to leave office (Fernando Collor, in 1992, by resignation; and Dilma Rousseff, in 2016, through a politically debatable conviction), it seems that, at least for now, constitutional institutions have been able to avoid a rupture.[63] However, the rise of Pres. Jair Bolsonaro to power has demonstrated that both authoritarianism and antiliberalism are no strangers to the Brazilian political present. Moreover, they can mutate into illiberalism and create both political and juridical supports for a self-declared authoritarian president.

Beyond the perpetuation of old theories justifying the declaration of martial law, constitutional lawyers still positioned themselves in ways that tried to legitimize the authoritarian past. Celso Ribeiro Bastos, an influential constitutional scholar who died in 2003, still defined what happened in 1964 as a revolution, not a coup.[64] Ives Gandra da Silva Martins was an important scholar in establishing the regulations for Brazilian judicial review of legislation as exercised by the Supreme Court. His writings from 1977, 1984, and 1987 offer a glimpse of his style of conservatism.[65] In 1977, he argued that there was an erosion of traditional values, an excess of liberty, a growing drug addiction problem, and the devaluation of sex's designation as a marital institution.[66] For the 1988 Constitution to come to into full effect he argued, in 1987, that a parliamentary system would be best.

In 2002, in an article for the *Revista da Escola Superior de Guerra* (Journal of the Higher Academy of War), Martins contended that it had become no longer "politically correct" to defend the traditional family, but rather the "deformed" same-sex family supported by media outlets.[67] These were (and are) important ideas to support the type of illiberalism that Bolsonaro would use to win in the two rounds

61 Emilio Meyer, "Judges and Courts Destabilizing Constitutionalism: The Brazilian Judiciary Branch's Political and Authoritarian Character," *German Law Journal* 19, no. 4 (2018), 756, https://doi.org/10.1017/s2071832200022860.

62 Luiz Vianna, Maria Carvalho, and Marcelo Burgos, *Quem Somos: A Magistratura que Queremos* (Rio de Janeiro: Associação dos Magistrados Brasileiros, 2018), 109.

63 President Lula relied on a constitutional device, providing for federal intervention in the government of the Federal District, to halt the violent acts of January 8, 2023, and get control over the situation of the coup that was being attempted. Also, by dismissing the commander of the army, he was able to demonstrate at least a partial submission of the military to the civilian presidential authority.

64 Celso Bastos, *Curso de Direito Constitucional* (São Paulo: Malheiros, 1998), 132.

65 See Ives Gandra da Silva Martins, *O Estado de Direito e o Direito do Estado: Outros Escritos* (São Paulo: Lex Editora, 2006).

66 Ives Gandra da Silva Martins, *O Estado de Direito e o Direito do Estado: Outros Escritos* (São Paulo: Lex Editora, 2006), 56.

67 Ives Gandra da Silva Martins, O Complicado Mundo Atual, *Revista da Escola Superior de Guerra*, n. 41, 2002, 304, https://doi.org/10.47240/revistadaesg.v0i41.386.

of 2018 presidential elections. In 2021, Martins would constantly be referred to as one of the constitutional lawyers who saw in the provision of Article 142 of the 1988 Constitution a permission for the armed forces to directly intervene in a conflict in the form of a "moderating power" (or "moderating branch") acting as an arbiter among the three other branches of government, at the same time that Bolsonaro took to the streets to threaten both Congress and the Supreme Court.[68]

These are some of the most traditional scholars, who have influenced many lawyers and attorneys in Brazil. But they were not the only ones to exercise wide influence after 1988. Relying on the most democratic structure of all Brazilian constitutional texts, constitutional law scholars started to support different interpretative methodologies.

Maintaining the tension between liberalism and illiberalism, while also deepening socio-economic perspectives on the basis of the 1988 Constitution, several scholars would continuously push, both academically and in terms of advocacy, for a constitutional democratic state (*Estado Democrático de Direito*) in terms of the rule of law.[69] So, there are plenty of reasons to read Brazilian constitutional history in a democratic light, and to only focus on the authoritarian perspective is, in itself, an exclusionary exercise. Still, one needs to understand why, in 2018, most Brazilian voters chose Bolsonaro, and why he kept on maintaining considerable support despite failing to win re-election.

In terms of the factors favoring Brazilian illiberalism, one of the most striking is the public's disenchantment with politics. Using public resources for private gain via patronage, clientelist relationships in politics that perpetuate the dominance of more powerful partners over weaker ones persist and remain part of the political landscape in Brazil.[70] Especially in a country marked by severe inequality, it is difficult to eliminate relationships that have endured for centuries. This does not mean, however, that politics in Brazil are forever doomed, yet this is the kind of thinking

68 Ives Gandra da Silva Martins, "Ives Gandra: Minha interpretação do artigo 142 da Constituição Federal," Consultor Jurídico (website), August 27, 2021, https://www.conjur.com.br/2021-ago-27/ives-gandra-minha-interpretacao-artigo-142-constituicao.
The official English translation of the preamble to Article 142 of the 1988 Constitution, which can be found on the Brazilian Senate's website (https://www2.senado.leg.br/bdsf/bitstream/handle/id/243334/Constitution_2013.pdf), reads as follows:
"The Armed Forces, comprised of the Navy, the Army and Air Force, are permanent and regular national institutions, organized on the basis of hierarchy and discipline, under the supreme authority of the President of the Republic, and are intended for the defense of the Country, for the guarantee of the constitutional powers, and, on the initiative of any of these, of law and order."
Cf. Portuguese original: "Art. 142. As Forças Armadas, constituídas pela Marinha, pelo Exército e pela Aeronáutica, são instituições nacionais permanentes e regulares, organizadas com base na hierarquia e na disciplina, sob a autoridade suprema do presidente da República, e destinam-se à defesa da Pátria, à garantia dos poderes constitucionais e, por iniciativa de qualquer destes, da lei e da ordem."
See: https://normas.leg.br/?urn=urn:lex:br:federal:constituicao:1988-10-05:1988.

69 See Paulo Bonavides, *Teoria Constitucional da Democracia Participativa: Por Um Direito Constitucional de Luta e Resistência, por Uma Nova Hermenêutica, por Uma Repolitização da Legitimidade* (São Paulo: Malheiros, 2001, 77–78). The author argued, in 1999, that there were alternative forms for destroying a constitution using institutional and neoliberal means instead of a violent coup.
See also Menelick Neto, "Racionalização do Ordenamento Jurídico e Democracia," *Revista Brasileira de Estudos Políticos*, no. 88 (2001): 81–108. This author persistently defended the constitutional order established in 1988 and was always aware that the manipulation of the concept of the people can lead to exclusion.
See also Marcelo Cattoni, *Poder Constituinte e Patriotismo Constitucional* (Belo Horizonte: Mandamentos, 2006). This author defended an understanding of judicial review in Brazil that gave equal weight to the preservation of fundamental rights and to legislative procedure.
See also Lênio Streck, *Hermenêutica Jurídica e(m) Crise: Uma Exploração Hermenêutica da Construção do Direito* (Porto Alegre: Livraria do Advogado, 1999). This author published several books defending hermeneutical methodologies congenial to the enforcement of the 1988 Constitution.
See also José Afonso da Silva, *Curso de Direito Constitucional*, 16th ed. (São Paulo: Malheiros, 1999). This author was one of the most influential scholars during the 1987–1988 debates and helped forge a democratic constitutional system.

70 Scott Mainwaring, *Rethinking Party Systems in the Third Wave of Democratization: The Case of Brazil* (Stanford: Stanford University Press, 1999), 179.

that illiberals and antiliberals want the electorate to believe in.[71] Tons of pages of political science, law, and sociology have been written to denounce clientelism and corruption as the unique problems of politicians, thereby demonizing the state and, consequently, politics itself.

In this sense, when authoritarian constitutionalists like Francisco Campos or Oliveira Viana declared the bankruptcy of representative democracy in the 1930s due to its inefficiency, corruption, or the ineptitude of those meant to represent the people, they probably knew they were not pointing to anything new under the sun, nor offering a truly effective remedy to Brazilian political problems. The military dictatorship of 1964–1985, for example, is now seen as the cradle of corruption inside big companies that won government procurement contracts.[72] President Fernando Collor de Mello was impeached for, among other things, being involved with a former electoral campaign treasurer who would have mobilized resources to favor the president and for lying about it—although Collor was elected as an outsider running as a would-be a graft hunter.[73] During President Fernando Henrique Cardoso's first term, there were accusations that the approval of the constitutional amendment allowing him to run for a second term relied on the payment of congressmen.[74] Against this background, when the era of the Workers' Party's (Partido dos Trabalhadores: PT) governments began, one important step inside the Ministry of Justice was to strengthen the Federal Police. It was back in the 2000s that huge police operations were covered by the media, and it seemed that a turning point would have been reached.

The Politics of Operation Car Wash

One aspect of Brazilian illiberalism's leading theorists was that several of them were engaged both in academia and in political activity. The leading figures of what came to be known as Operation Car Wash also shared this same background.

Throughout its existence, the Workers' Party has been known for campaigning for ethics in politics as part of its electoral platform. However, during President Luiz Inácio Lula da Silva's first term (and as this author and others have pointed out in another article), one of the biggest scandals of the democratic era took place: the so-called *Mensalão* (Portuguese for "big allowance") was ruled on by the Federal Supreme Court, widely commented and broadcasted by media outlets, and resulted in the sentencing of 40 people who had been found guilty in a massive vote-buying scheme in the federal legislature.[75] But more was to come. In 2014, then-Federal Judge Sérgio Moro and his colleague, the federal prosecutor Deltan Dellagnol, led the large Operation Car Wash investigation into corruption scandals, beginning with the huge Brazilian state oil company, Petrobras. These financial crimes involved a vast amount of public spending, and the country had just faced a major political crisis, with public protests in 2013, such that the leading players in the scandals were none other than the leading figures of the Workers' Party.

Of course, crimes were committed and, for the most part, the operation was able to show how financing electoral campaigns in Brazil involved dirty money. Nonetheless, the investigation backfired when leaked messages showed the accusations and judgements were combined between the different institutional actors, including Moro and Dallagnol. Judge Moro also helped Jair Bolsonaro get elected when he leaked to

71 Jessé Souza, *A Tolice da Inteligência Brasileira* (São Paulo: Casa da Palavra, 2015).

72 See Pedro Campos, *Estranhas Catedrais: As Empreiteiras Brasileiras e a Ditadura Civil-Militar, 1964-1988* (Rio de Janeiro: Eduff, 2014).

73 Rafael Mafei, *Como Remover um Presidente: Teoria, História e Prática do Impeachment No Brasil* (São Paulo: Zahar, 2021), 125.

74 "Entrevista: FHC afirma que coloca suas 'mãos no fogo' pela lisura da votação," *Folha de S. Paulo*, September 2, 1997, https://www1.folha.uol.com.br/fsp/brasil/fc020905.htm.

75 Rafael Mafei, Thomas Bustamante, and Emilio Meyer, "From Antiestablishmentarianism to Bolsonarism in Brazil," in *The Routledge Handbook of Illiberalism*, eds. András Sajó, Renáta Uitz, and Stephen Holmes (Abingdon: Routledge, 2022), 779, https://doi.org/10.53483/xclx3551.

the press, right before the final round of the 2018 elections, a plea-bargain agreement involving a former Workers' Party minister faced with corruption accusations, only to then dismiss the agreement as useless in the criminal proceedings. The leak had a clear electoral purpose.[76] Moro became Bolsonaro's Minister of Justice, resigned, saw the guilty verdict he had issued and that sent former President Lula to prison being nullified by the Supreme Court,[77] and, in 2022, tried to run for the presidency.

Sérgio Moro and Deltan Dallagnol (who also abandoned the Office of the Federal Public Prosecutor to become a politician) both studied at the Federal University of Paraná, with Moro going on to become a professor there. As at any public university in Brazil, they would have received both technical and theoretical training in their legal education. The profile of public careers in Brazil today, however, privileges technical knowledge, requiring that job applicants taking exams for civil service positions demonstrate in-depth knowledge of diverse areas of law, a huge amount of statutory legislation, and the main Brazilian courts' case law. Although some such exams require a certain knowledge of jurisprudence and legal philosophy, it seems to be hard to evaluate the comparative mastery of these disciplines among thousands of job candidates and to constantly reassess judges and prosecutors in office using continuing education.

Operation Car Wash was terminated by the Prosecutor General Augusto Aras, the leading figure of the Office of the Public Prosecutor appointed by President Bolsonaro.[78] But the operation generated the particular effect of amplifying the discourse against politics. As Federal Judge Fabiana Rodrigues described it, the operation produced efficiency in fighting corruption, speeding up the collection of evidence and the criminal prosecutions, as well as improving the financial analysis of international agreements.[79] Such effectiveness came at a high cost, involving self-promotion by agents involved in the operation and the administration of the timing of the judicial acts so they could count on greater visibility in the media. Using pre-trial detention and plea-bargain agreements while counting on newspapers and television shows to publicize the progression of the operation, prosecutors and judges tried a high number of defendants, with 174 of them being convicted. Cornered by the newspaper headlines, the Supreme Court reviewed its case law on rights to due process and jurisdictional competences between 2016 and 2019 to empower Operation Car Wash agents.

Operation Car Wash had its own political support. The Brazilian Association of Magistrates (Associação dos Magistrados Brasileiros: AMB) supported Moro when a group of lawyers filed an administrative complaint against him in the Brazilian National Judicial Council, back in 2016.[80] When Moro leaked to the press phone conversations between former President Lula and then-President Dilma Rousseff, the Association of Brazilian Federal Judges (Associação dos Juízes Federais do Brasil: AJUFE) also published a note in his support.[81] Neither association had any role in the judicial proceedings they were defending, having no jurisdiction over them. In 2019, when he was already a Minister of Justice, AJUFE again supported Moro in the face

76 The Intercept Brasil, "As Mensagens Secretas da Lava Jato," https://theintercept.com/series/mensagens-lava-jato/.

77 Thomas Bustamante and Emilio Meyer, "Operation Car Wash on Trial," Verfassungsblog, March 10, 2021, https://verfassungsblog.de/operation-car-wash-on-trial/.

78 Ricardo Britto and Gram Slattery, "After Seven Years, Brazil Shuts Down Car Wash Anti-Corruption Squad," Reuters, February 3, 2021, https://www.reuters.com/article/us-brazil-corruption-idUSKBN2A4068.

79 Fabiana Rodrigues, *Lava Jato: Aprendizado Institucional e Ação Estratégica na Justiça* (São Paulo: Editora WMF Martins Fontes, 2020), 259.

80 Matheus Leitão, "Juízes fazem campanha na internet em apoio a Sérgio Moro," G1 (Globo), March 10, 2016, https://g1.globo.com/politica/blog/matheus-leitao/post/juizes-fazem-campanha-na-internet-em-apoio-sergio-moro.html.

81 AJUFE, "Nota Pública em Apoio ao Juiz Federal Sérgio Moro," *Correio Braziliense*, Blog do Servidor, March 17, 2016, http://blogs.correiobraziliense.com.br/servidor/ajufe-nota-publica-em-apoio-ao-juiz-federal-sergio-moro/.

of his conversations with prosecutors that were leaked.[82] When the Supreme Court overturned Lula's conviction, AJUFE publicly defended Operation Car Wash.[83] Even Supreme Court Justice Roberto Barroso supported the operation in the past, despite knowing that, in the future, cases relating to it might come before him.[84]

If one adds Operation Car Wash to the 2016 politically debatable impeachment of President Dilma Rousseff, the result becomes the general anti-PT (anti-Workers' Party) sentiment that propelled the anti-establishment and anti-politics electoral campaign of Jair Bolsonaro to the presidency.[85]

Voting for Bolsonaro

Still, we need further arguments to understand how people in general, and jurists in particular, came to lend their support to the election and subsequent administration of Jair Bolsonaro. As Stenner already has shown, any society contains at least a certain minimum percentage of people with authoritarian profiles, or authoritarian predispositions.[86] Add to this a normative threat such as a political or economic crisis—such as those that have been going on continually in Brazil—and other voters join the authoritarian ones in any undemocratic project. The case of the so-called model citizen who opposes LGBT rights, criticizes the role of universities, adopts evangelicalism as a religion, defends family and property, serves as a collection of a very heterogenous group in support of Bolsonaro.[87] In this sense, to argue that Bolsonarism is set on a solid theoretical basis is to forget that what the movement did was to create a bricolage, a kaleidoscope of political positions.[88] Bolsonarism does not have a coherent scheme of ideas. Furthermore, there is no proper definition of the good that should be pursued by Bolsonarists, although blind obedience to the populist leader is required.[89] No substantive or communitarian bonds link the different backgrounds of supporters of Bolsonaro, except the atomistic and individualist concept of liberty.[90]

Although President Bolsonaro claimed to have the writer Olavo de Carvalho as a guru and even paid tribute to him when he died of COVID-19, the fact is that he was only able to indicate some members for Bolsonaro's government, without offering a theoretical basis for a political direction.[91] Carvalho's worldview was, in fact, the condensation of the armed forces' worldview on the threats of "cultural Marxism."[92] In a document from 1989, they expressed their concern that the left would use the theories developed by the 20th-century Italian Marxist writer Antonio Gramsci

82 "Juízes Federais Assinam Moção de Apoio a Sérgio Moro," Migalhas (website), June 26, 2019, https://www.migalhas.com.br/quentes/305142/juizes-federais-assinam-mocao-de-apoio-a-sergio-moro.

83 AJUFE, "Presidente da Ajufe se Manifesta sobre Decisão do STF que Declarou que Moro foi Parcial ao Condenar Ex-Presidente Lula," AJUFE website, March 24, 2021, https://www.ajufe.org.br/imprensa/noticias/15383-presidente-da-ajufe-se-manifesta-sobre-decisao-do-stf-que-declarou-que-moro-foi-parcial-ao-condenar-ex-presidente-lula.

84 Thomas Bustamante, Emilio Meyer, and Evanilda Godoi, "Luís Roberto Barroso's Theory of Constitutional Adjudication: A Philosophical Reply," *American Journal of Comparative Law*, forthcoming.

85 Rafael Mafei, Thomas Bustamante, and Emilio Meyer, "From Antiestablishmentarianism to Bolsonarism in Brazil," in *The Routledge Handbook of Illiberalism*, eds. András Sajó, Renáta Uitz, and Stephen Holmes (Abingdon: Routledge, 2022), 780, https://doi.org/10.53483/xclx3551.

86 Karen Stenner, *The Authoritarian Dynamic* (Cambridge, UK: Cambridge University Press, 2005).

87 Mafei, Bustamante, and Meyer, "From Antiestablishmentarianism to Bolsonarism in Brazil," 781.

88 Isabela Kalil, "Crise política, esquerdas e bolsonarismo," *Revista ADUSP* (2020), 16–18.

89 Thomas Bustamante and Conrado Mendes, "Freedom without Responsibility: The Promise of Bolsonaro's COVID-19 Denial," *Jus Cogens* vol. 3 no.2, 2021), 184, https://doi.org/10.1007/s42439-021-00043-4.

90 Bustamante and Mendes, "Freedom without Responsibility," 198.

91 Federico Finchelstein and Odilon Caldeira Neto, "El destino final del gurú de Bolsonaro," *Clarín*, January 31, 2021, https://www.clarin.com/opinion/destino-final-guru-bolsonaro_0_xho5R70cBy.html.

92 Bruno Lupion, "Militares Não Mudaram Modo de Pensar Depois da Ditadura," *Deutsche Welle*, June 4, 2020, https://www.dw.com/pt-br/militares-não-mudaram-modo-de-pensar-depois-da-ditadura/a-53679430.

to brainwash people and start another revolution.[93] This frenzy appeared in the polemicist Olavo de Carvalho's writings and would be repeated by Bolsonaro.[94]

To use the 20th-century liberal philosopher John Rawls' terms, maybe the only clue as far as a single, comprehensive doctrine adopted and imposed by Bolsonarism is related to pragmatic ends and opportunism. In fact, opportunism appears as an important feature of illiberalism, as Smilova envisages it.[95] Goals are calculated by reason of their economic means, as long as they generate wealth for the members of a given community. Such an approach explains why Bolsonaro has been able to maintain his support (even following his electoral defeat), even though he constantly changes his opinions in the face of accusations against his sons, changes in the economy, or erratic behavior towards the elites who support him. Consider, for example, that he presented himself as a corruption fighter in the 2018 presidential campaign, only to find himself and one of his sons, Flávio, being accused of organizing a kickback scheme in which they would agree to hire cronies as their publicly-paid assistants and in exchange informally demand a cut of their public salaries to be paid to the Bolsonaros each month when the two were serving in Congress.[96]

Bolsonaro has been affiliated with eight different political parties over the course of his career and enrolled in a party whose leader was even arrested in the past for bribery. He criticized the whole political establishment, only to then adhere to one of worst examples of pork barrel politics of the worst parties in Brazil, to avoid impeachment proceedings.[97] He defended the protection of national interests against foreign competition throughout his career as a federal deputy, but started to support the privatization of Petrobras, Brazil's giant state-owned oil company, when gas prices were skyrocketing in 2022, the year of the presidential elections.[98] He relied on the support of several of the most senior members of the armed forces, but fired the commanders of the Army, the Navy, and the Air Force when they resisted giving him political support for his covid-19 policies.[99] All in all, opportunism seems to be the backbone of Bolsonaro's policies.

Bustamante and Mendes add that there is also a feature of Bolsonaro's supporters in their copying of his transgressive behavior based on the idea that, as an ordinary man who reached the presidency, he must authentically preserve his basic behaviors.[100] Additionally, Bolsonaro eschews any kind of responsibility, reproducing from the bully pulpit of his office all the authoritarian values that many of the Brazilian citizens who support him share.

93 Lucas Pedretti, "Os Ecos do ORVIL em 2021, O Livro Secreto da Ditadura," Pública (website), August 30, 2021, https://apublica.org/2021/08/os-ecos-do-orvil-em-2021-o-livro-secreto-da-ditadura/.

94 Olavo de Carvalho, "Do Marxismo Cultural," *O Globo*, June 8, 2002, https://olavodecarvalho.org/do-marxismo-cultural/.

95 Ruzha Smilova, "The Ideational Core of Democratic Illiberalism," in *The Routledge Handbook of Illiberalism*, eds. András Sajó, Renáta Uitz and Stephen Holmes (Abingdon: Routledge, 2022), 177, https://doi.org/10.53483/xclx3551.

96 Al Jazeera, "Brazil's Bolsonaro Faces More Corruption Accusations," *Al Jazeera*, July 5, 2021, https://www.aljazeera.com/news/2021/7/5/brazils-bolsonaro-faces-corruption-accusations.

97 Celso Barro, "Bolsonaro Não Salvou a Democracia," *Folha de S. Paulo*, August 1, 2021, https://www1.folha.uol.com.br/colunas/celso-rocha-de-barros/2021/08/bolcentrao-nao-salvou-a-democracia.shtml.

98 Ricardo Colletta, "Bolsonaro Defende Revisão de Política de Preços para Conter Alta dos Combustíveis", *Folha de S. Paulo*, March 7, 2022, https://www1.folha.uol.com.br/mercado/2022/03/bolsonaro-defende-revisao-de-politica-precos-para-conter-alta-dos-combustiveis.shtml.

99 Igor Gielow, Vinicius Sassine, and Gustavo Uribe, "Atrito com Bolsonaro Derruba Comandantes das Forças Armadas, na Maior Crise Militar desde 1977," *Folha de S. Paulo*, March 30, 2021, https://www1.folha.uol.com.br/poder/2021/03/comandantes-das-forcas-armadas-pedem-demissao-em-protesto-contra-bolsonaro.shtml.

100 Bustamante and Mendes, "Freedom without Responsibility," 185.

Legitimizing Bolsonaro

Besides the continuing support of prosecutors and judges for Operation Car Wash, which cleared the way for the rise of Bolsonaro, there were jurists who openly embraced the president's proposals.

In 2018, during the presidential elections, women from all over Brazil launched the campaign *#EleNão* (not him), which held demonstrations in more than 114 cities and alerted the electorate to the perils of Bolsonaro's election.[101] Against this movement, conservative jurists launched a *#EleSim* (yes, him) slogan. They argued that a major institutional effort against corruption had been undertaken in the recent past, and that they were supporting a project that should be bounded by the constitution and by tolerant and peaceful coexistence (words that would be difficult to find in Bolsonaro's speeches). The signatories of the petition included Ives Gandra da Silva Martins and other well-known jurists in Brazil, such as Luis Guilherme Marinoni, Daniel Mitidiero, and Teresa Arruda Alvim, among others.[102]

Support for Bolsonaro's administration also came from Evangelical jurists. The National Association of Evangelical Jurists (Associação Nacional de Juristas Evangélicos: ANAJURE) was created in 2012 with the help of Bolsonaro's Minister of Women, Family, and Human Rights, Damares Alves.[103] Alves is known for her controversial statements, such as that use of the TikTok platform is associated with higher rates of pregnancy among adolescents.[104] ANAJURE supported Bolsonaro in his endeavor to nominate an Evangelical jurist to the Supreme Court—which finally happened with the nomination of Justice André Mendonça.[105] The association has been very active in Congress and in lawsuits brought before the Supreme Court.[106] It also supported Sérgio Moro when he was Bolsonaro's justice minister, especially in his harsh crime-fighting package, a bill that included, for instance, a license for policemen to kill when in the line of duty if they feared for their lives or in hot pursuit of criminal perpetrators.

Another line of support to Bolsonaro came from Brazilian prosecutors. The Pro-Society Prosecutors (Ministério Público Pró-Sociedade: MP) united prosecutors from all over the country—in an informal gathering of prosecutors and without the federal or state office's seal—who argued that capitalism is a plain fact and conservatism is part of any society (they quote the British conservative philosopher Roger Scruton on

101 Amanda Rossi, Julia Carneiro, and Juliana Gragnani, "#EleNão: A Manifestação Histórica Liderada por Mulheres no Brasil Vista por Quatro Ângulos," *BBC News Brasil*, September 30, 2018, https://www.bbc.com/portuguese/brasil-45700013.

102 "Advogados e Professores Assinam Manifesto por Bolsonaro," Migalhas (website), October 17, 2018, https://www.migalhas.com.br/quentes/289344/advogados-e-professores-assinam-manifesto-por-bolsonaro.

103 Associação Nacional de Juristas Evangélicos website, https://anajure.org.br. See also Carolina Zanatta, "Associação de Juristas Evangélicos Fundada por Damares Alves Amplia Lobby no Governo," Pública (website), June 12, 2019, https://apublica.org/2019/06/associacao-de-juristas-evangelicos-fundada-por-damares-alves-amplia-lobby-no-governo/.

104 Melissa Duarte, "Damares Relaciona Gravidez na Adolescência ao TikTok," *O Globo*, January 2, 2022, https://oglobo.globo.com/brasil/direitos-humanos/damares-relaciona-gravidez-na-adolescencia-ao-tiktok-25376786.

105 ANAJURE, "Nota Pública em Resposta à Manifestação que Postula a Rejeição da Indicação do Dr. André Mendonça ao STF," ANAJURE website, July 20, 2021, https://anajure.org.br/nota-publica-em-resposta-a-manifestacao-que-postula-a-rejeicao-da-indicacao-do-dr-andre-mendonca-ao-stf/.

106 Carolina Zanatta, "Associação de Juristas Evangélicos Fundada por Damares Alves Amplia Lobby no Governo," Pública (website), June 12, 2019, https://apublica.org/2019/06/associacao-de-juristas-evangelicos-fundada-por-damares-alves-amplia-lobby-no-governo/.

their website).[107] They criticised "globalism," much in the sense of how Bolsonaro's then-Foreign Minister Ernesto Araújo did, alleging that Communism, cronyism, and Gramscian Marxism came to replace the traditional values of society in the 1960s.[108]

Prosecutors also argued in favor of parents' rights concerning the education of their children. Concerning their functions, the role of prosecutors should be, above all, to protect victims' rights and they should avoid what they refer to as "thugolatry" (*bandidolatria*). One of the members of the Pro-Society Prosecutors described the coronavirus as a "Chinavirus."[109] Several of its members insisted that mayors throughout Brazil needed to offer the public the so-called "early treatment" for COVID-19—the mixture of hydroxychloroquine, ivermectin, and other medicines without scientific basis that Bolsonaro was irresponsibly recommending to the population.[110] Additionally, a federal prosecutor who is part of the group argues on social media that the "worldwide left" is responsible for pedophilia.[111] Even a request for Bolsonaro to declare a state of emergency in reason of the pandemic was made by the association, with fierce criticism by others prosecutors' associations throughout the country.[112]

Beyond indirect or electoral support for Bolsonaro, other jurists have volunteered their time to advance Bolsonarism. André Mendonça has held, successively, the offices of attorney general and minister of justice. In the latter role, he harassed Bolsonaro's critics using the now revoked National Security Act.[113] His fidelity was rewarded in the form of a nomination to the Supreme Court. José Levi do Amaral, a constitutional law professor at the University of São Paulo and a career member of the Office of the Solicitor General, also served as attorney general.

Augusto Aras was nominated to be prosecutor general and has been widely criticized for his failure to hold President Bolsonaro accountable. Once a very autonomous and effective position, the prosecutor general has become the clearest case of institutional capture under the Bolsonaro administration. Consider that a study and report concerning the lawsuits on the constitutional review at the Supreme Court under the Bolsonaro administration has shown that the prosecutor general filed only 1.74% of the proceedings.[114] This means that, in a government not committed to the

107 See Ministério Público Pró-Sociedade website: https://www.mpprosociedade.com.br. At the time of this writing, the Pro-Society Prosecutors website has been suspended, probably due to an investigation by the National Council on Prosecutors into undue usage of the name of the institution. See João Filho, "Como Atua o MP Pró-Sociedade, Grupo Que Usa o Aparato do Estado em Defesa da Ideologia Bolsonarista," The Intercept Brasil (website), November 1, 2020, https://theintercept.com/2020/11/01/como-atua-o-mp-pro-sociedade-grupo-que-usa-o-aparato-do-estado-em-defesa-da-ideologia-bolsonarista/; Hyndara Freitas, "CNMP Vai Avaliar Uso do Termo 'Ministério Público' por Entidades de Direito Privado", Jota (website), June 24, 2020, https://www.jota.info/coberturas-especiais/liberdade-expressao/cnmp-vai-avaliar-uso-do-termo-ministerio-publico-por-entidades-de-direito-privado-24062020.

108 Ernesto Araújo, Palestra do Ministro Ernesto Araújo no Seminário da FUNAG sobre Globalismo, Brazilian Foreign Ministry website, June 10, 2019, https://www.gov.br/funag/pt-br/centrais-de-conteudo/politica-externa-brasileira/palestra-do-ministro-ernesto-araujo-no-seminario-da-funag-sobre-globalismo.

109 Filho, "Como Atua o MP Pró-Sociedade."

110 Emilio Meyer and Thomas Bustamante, "A Portrait of Bolsonaro's Crimes against Humanity," *Verfassungsblog*, November 5, 2021, https://verfassungsblog.de/a-portrait-of-bolsonaros-crimes-against-humanity/.

111 Filho, "Como Atua o MP Pró-Sociedade."

112 Associação Paranaense do Ministério Público, "Associações do Ministério Público São Contrárias à Representação da Entidade MP Pró-Sociedade que Postula a Decretação de Estado de Defesa," March 17, 2021, https://www.apmppr.org.br/noticias/associacoes-do-ministerio-publico-sao-contrarias-a-representacao-da-entidade-mp-pro-sociedade-que-postula-a-decretacao-de-estado-de-defesa-3159.

113 Ulisses Reis and Emilio Meyer, "Undemocratic Legislation to Undermine Freedom of Speech in Brazil," I-Connect Blog, February 3, 2021, http://www.iconnectblog.com/2021/02/undemocratic-legislation-to-undermine-freedom-of-speech-in-brazil/.

114 Eloísa Machado and Luiza Ferraro, "PGR e AGU se Alinham na Defesa de Atos de Bolsonaro, Aponta Estudo Sobre Ações Movidas no Supremo," *Folha de S. Paulo*, August 19, 2021, https://www1.folha.uol.com.br/poder/2021/08/pgr-e-agu-se-alinham-na-defesa-de-atos-de-bolsonaro-aponta-estudo-sobre-acoes-movidas-no-supremo.shtml.

rule of law, the number of prosecutions was quite low. Concerning 287 lawsuits, the prosecution service only gave its opinion in 148 proceedings, most of the time delaying manifestations: this shows a lack of oversight procedures. Considering that the Office of the Solicitor General is the institution responsible for defending the federal government, it is no surprise that the prosecutor general had the same opinion in 85.71% on the merits of the cases. Even with thousands of documents and other evidence found by the congressional committee that investigated Bolsonaro for his policies on the COVID-19 pandemic, showing that herd immunity was a general policy that led to over 600,000 deaths, the prosecutor general has done nothing at the time of this writing. On the contrary, in another lawsuit relating to the pandemic, the office expressed doubts about the efficacy of mask wearing to prevent infections.[115]

Conclusions

As in any constitutional jurisdiction, the Brazilian political system is pressed by the tensions between constitutionalism and democracy on one side, and liberalism, antiliberalism, and illiberalism, on the other side. As described in this article, the complete removal of authoritarian or illiberal dispositions and practices is an impossible task to accomplish, especially in an extremely unequal society historically marked by slavery and colonialism. This does not mean that Brazil is doomed to authoritarianism: through different phases in its constitutional history and, especially, more recently, political stabilization through constitutional democracy was partially reached. However, pressed by constant political and economic crises from at least 2013 onward, these authoritarian predispositions blossomed in a way capable of carrying a self-declared far-right authoritarian candidate all the way to the presidency. With him came a wave of support from people who felt left behind by mainstream public policies, coupled with amplified accusations of corruption and fake Communism, echoing the type of criticism authoritarian constitutionalists made in the past. This revival and reinvention in the very different setting of an Information Age society helped gather support and maintain it, even in face of a pandemic badly fought.

However, if illiberalism was structured and legally legitimized by several scholars in today's Brazil, it has not yet reached the point of no return in politics. The administration's poor performance in the face of the pandemic and the political incompetence of President Bolsonaro prevented him from expanding his popularity. This scenario helped institutions to mount political and juridical responses, in Congress and in the Supreme Court, that opposed his most authoritarian objectives. Incapable of gaining wider support while following the path of illiberalism, it seems that Bolsonarism has big challenges facing its political future in Brazil—even if it will not, in the near term, disappear as a political force. The results of the 2022 elections showed that Bolsonarism is still capable of electing several conservative deputies and senators, meaning that it will be, for the time being, a strong political force, even without Jair Bolsonaro being re-elected president.

115 Márcio Falcão and Fernanda Vivas, "Parecer da PGR que Minimizou Não Uso de Máscara por Bolsonaro Gera Perplexidade, diz Rosa Weber," G1 (Globo), October 1, 2021, https://g1.globo.com/politica/noticia/2021/10/01/parecer-da-pgr-que-minimizou-nao-uso-de-mascara-por-bolsonaro-gera-perplexidade-diz-rosa-weber.ghtml.

TABLE 1. List of Brazilian liberal and illiberal scholars mentioned in the article

Scholars and jurists	Main period(s) of publication and activity	Government positions held	Academic positions held	Main publications
Braz Florentino (1825–1870)	Brazilian Empire (1824–1870)	Governor of Maranhão province	Recife School of Law Professor	*Do Poder Moderador* (1864)
Góis e Vasconcellos (1815–1877)	Brazilian Empire (1824–1870)	Governor of 3 provinces, Deputy and 3-time Minister (Navy, Justice, and Economy)	Recife School of Law Professor	*Da Natureza e Limite do Poder Moderador* (1860)
Rui Barbosa (1849–1923)	Brazilian Empire (1824–1870), 1st Republic (1891–1930)	Finance Minister, Senator, Deputy, Representative at the Hague Peace Conference (1907)	N/A	*Os Atos Inconstitucionais do Congresso e do Executivo ante a Justiça Federal* (1893)
Pedro Lessa (1859–1921)	1st Republic (1891–1930)	State Secretary, Supreme Court Justice	São Paulo School of Law Professor	*Do Poder Judiciário* (1915)
Alberto Torres (1865–1917)	1st Republic (1891–1930)	Governor of Rio de Janeiro state, Minister of Justice, Supreme Court Justice	N/A	*O Problema Nacional Brasileiro* (1938)
Oliveira Viana (1883–1951)	1st Republic (1891–1930), Vargas dictatorship (1937–1945)	Union Audit Court Minister	Rio de Janeiro State School of Law	*Instituições Políticas Brasileiras* (1949)
Pontes de Miranda (1892–1979)	Vargas dictatorship (1937–1945), 1946–1964, Military dictatorship (1964 until Miranda's death)	Judge, diplomat	None (professor *honoris causa* in several institutions)	*Comentários à Constituição de 1967* (1970)
Francisco Campos (1891–1968)	Vargas dictatorship (1937–1945), Military dictatorship (1964–1985)	State and Federal Deputy, State Secretary, Education Minister, Justice Minister	Professor: Minas Gerais School of Law; National School of Law	*O Estado Nacional* (1940)
Almir de Andrade (1911–1991)	Vargas dictatorship (1937–1945)	National Agency Director, Vice-Chief of Staff	Rio de Janeiro School of Law	*Diretrizes da Nova Política do Brasil* (1943)
Miguel Reale (1910–2006)	Vargas dictatorship (1937–1945), 1946–1964, Military dictatorship (1964–1985), 1988 Constitution until Reale's death	São Paulo Justice Secretary, reviewer of the 1967 military-imposed Constitution	São Paulo University School of Law Professor	*Obras Políticas* (1983)
Alfredo Buzaid (1914–1991)	Military dictatorship (1964–1985)	Minister of Justice, Supreme Court Justice	São Paulo University School of Law Professor	*Humanismo Político* (1973)
Hely Lopes Meirelles (1917–1990)	Military dictatorship (1964–1985)	Judge, São Paulo Public Security State Secretary	São Carlos Engineering School	*Direito Administrativo Brasileiro* (1982)
Manoel Gonçalves Ferreira Filho (1934–)	Military dictatorship (1964–1985), 1988 Constitution onwards	São Paulo Vice-Governor; São Paulo State Secretary of Justice	São Paulo University School of Law Professor	*O Poder Constituinte* (1985)
Celso Ribeiro Bastos (1938–2003)	1988 Constitution onwards	N/A	São Paulo University School of Law Professor	*Curso de Direito Constitucional* (1999)
Ives Gandra da Silva Martins (1935–)	Military dictatorship (1964–1985), 1988 Constitution onwards	N/A	Mackenzie Presbyterian University Professor	*O Estado de Direito e o Direito do Estado* (2006)
Sérgio Moro (1972–)	1988 Constitution onwards	Federal judge, Minister of Justice	Federal University of Paraná School of Law Professor	"Considerações Sobre a Operação Mani Pulite" (2004)

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Radicalization and the Origins of Populist Narratives about the Courts: The Argentinian Case, 2007–2015

BENJAMIN GARCIA HOLGADO

Abstract

In Latin America, presidents from different ideological backgrounds have systematically attacked the judiciary in order to implement their preferred public policies. In many cases, the leaders who control the executive branch have shown an early normative opposition to the power of courts to engage in the process of judicial review. For this article, I conducted a case study of Argentina from 2007 to 2015 under President Cristina Fernández de Kirchner that showed a different pattern and dynamic. After judges started to block public policies, she challenged the conception that liberal democracies require an independent judiciary with the constitutional ability to limit the scope of action of the executive and legislative branches. This view challenged the traditional liberal-democratic conception of the judiciary as a counter-majoritarian branch. The presidential party characterized judges as an aristocratic caste who ruled against the popular will in order to protect corporations' economic interests. Consequently, the president proposed a "democratized judiciary" in which judges rule following the "people's will," which meant whatever the president elected by a circumstantial electoral majority decided.

Keywords: Populism, illiberalism, judicial review, Argentina

Benjamin Garcia Holgado
PhD candidate, Department of Political Science; PhD Fellow, Kellogg Institute for International Studies: University of Notre Dame
bgarciah@nd.edu
DOI: 10.53483/XCMU3555

In Latin America, presidents from different ideological backgrounds have systematically attacked the judiciary in order to implement their preferred public policies.[1] In many cases, such as with Hugo Chávez in Venezuela (1999–2013), Alberto Fujimori in Peru (1990–2000), and Jair Bolsonaro in Brazil (2019–2022), the leaders in control of the executive branch have shown an early *ideological* and *normative* commitment against the power of courts to engage in judicial review. In this article, I conduct a case study of Argentina from 2007 to 2015 that shows a different pattern and dynamic. During that period, Argentina was a case of a populist president, Cristina Fernández de Kirchner, who became progressively radicalized in her policies against the independence of the media and the courts. After judges started to block the implementation of her public policies, the president developed a populist narrative about the proper role of the judiciary that directly challenged the classical liberal understanding of what judges are required to do in a liberal democracy. This case exemplifies how president's radicalization in her policy preferences against other political and social actors led her to perceive adversarial court rulings as a sign of an illegitimate alliance between judges and her political opponents.

In 2008, a conflict between the executive and rural organizations over taxes launched a reciprocal process of increasing radicalization between President Cristina Fernández de Kirchner (2007–2015) and different opposition parties and the media. President Fernández perceived that the traditional media and, in particular, Grupo Clarín (Argentina's largest media conglomerate), had a biased and unfair coverage of her conflict with rural organizations. Moreover, the executive accused *Clarín* of promoting attempts to force Fernández to leave office. In 2009, the administration began to engage in an unprecedented battle against Grupo Clarín. This led to the passing of a law to de-concentrate the media market with the intent of striking a blow against Grupo Clarín, which was immediately challenged this in court. Multiple judges over many years decided to block the implementation of the media law and the executive reacted by implementing a coordinated strategy to undermine judicial independence. A crucial part of this attack was the creation of a populist narrative, elaborated and promoted by journalists, academics, intellectuals, and lawyers who were supporters of the administration. This view challenged the traditional liberal-democratic conception of the judiciary as a counter-majoritarian branch. Instead, the administration characterized judges as an aristocratic caste who ruled against the popular will in order to protect corporate interests. In this way, the administration and its followers explicitly questioned the judiciary's authority to exercise judicial review.

In 2013, the conflict between the executive and the judiciary reached its peak when Fernández moved forward with a comprehensive judicial reform that would have severely damaged judicial independence. The Supreme Court nullified this reform in a landmark case in which the justices articulated a counter-narrative against the one put forward by the administration. The Court defended a conception of constitutional democracy that requires an independent judiciary with the capacity to limit circumstantial legislative majorities as well as harmonize majority rule with the protection of individual rights. From that moment onward, Fernández and her supporters continued to develop this populist narrative about the courts as just one piece of a more general populist worldview. In order to develop my argument and causal mechanisms for the Argentinian case, I collected evidence from multiple

1 I am grateful to Benjamin Sehnert, Tomás Gold, Cynthia McClintock, Julio Carrión, Cathleen Andrews, and two anonymous reviewers for their helpful comments. Also, a special thanks to Marlene Laruelle for organizing the wonderful workshop, "Illiberalism in Latin America" (April 2022) at The George Washington University.

sources: semi-structured elite interviews, newspapers, documents, speeches, memoirs, books written by investigative journalists, and other primary documents. I also rely extensively on scholarly works by constitutional lawyers and social scientists who are experts in specific topics discussed in the paper.

Radicalization, Liberal Democracy, and the Judiciary

In this section I explain how actors who have radicalized preferences create a narrative against the liberal-democratic notion that judges should conduct judicial review. This is just one particular dimension of the tension between having an extreme commitment to certain policy outcomes (resulting in radicalization) and a commitment to maintaining liberal democracy.[2] By *radicalization*, I refer to an antagonistic disposition of actors towards others in the pursuit of certain policies. A radical actor is one who has "intense policy preferences located towards a pole of the policy spectrum."[3] In particular, this conceptualization of radicalization has three components: (1) *polarization* (the actor's preferences move far away from other political actors), (2) *impatience* (actors feel an urgency to achieve their goals immediately), and (3) *intransigence* (actors reject any compromise when pursuing their policy goals).[4] Radicalization processes can either start within the executive branch, the opposition, or civil society groups. Likewise, they can be initiated: (1) by transformative actors who aim to radically change the status quo, or (2) by conservative actors who are intransigent in their defense of the status quo.[5]

On the other hand, by the term *liberal democracy*, I refer to a specific type of political regime that has two dimensions.[6] The *electoral dimension* refers to rules of access to state power that mandate that top legislative and executive positions should be accessed through free, fair, inclusive, effective, and regular elections. The *liberal dimension* refers to rules that impede the concentration of state power, guarantee social pluralism, and protect individual rights.[7] State power is usually divided among the legislative, executive, and judicial branches, which have specific tasks, including checking and balancing each other.[8] Moreover, horizontal accountability agencies have been included in many constitutional designs in order to monitor the executive branch.[9] Besides diffusing state power, liberal democracies also protect an ample set of rights, such as freedom of expression, of the press, of association and assembly, of movement, of religion, and the protection of the right to own private property.[10]

2 Arturo Valenzuela, *The Breakdown of Democratic Regimes: Chile* (Baltimore: Johns Hopkins University Press, 1978); Giovanni Capoccia, *Defending Democracy: Reactions to Extremism in Interwar Europe* (Baltimore: Johns Hopkins University Press, 2005); Kurt Weyland, *Revolution and Reaction* (Cambridge, UK: Cambridge University Press, 2019).

3 Scott Mainwaring and Aníbal Pérez-Liñán, *Democracies and Dictatorships in Latin America: Emergence, Survival, and Fall* (Cambridge, UK: Cambridge University Press, 2013), 36.

4 Mainwaring and Pérez-Liñán, *Democracies and Dictatorships in Latin America*, 36.

5 Mainwaring and Pérez-Liñán, 14–15, 36–39.

6 Political regimes are the set of formal and informal rules that regulate both how actors access the main offices of the government and state, as well as the limits of the state's regulatory and coercive powers over civil society: see Mainwaring and Pérez-Liñán, *Democracies and Dictatorships in Latin America*, 64–65. For the two dimensions that make up liberal democracy, see Carlos Gervasoni, *Hybrid Regimes within Democracies* (Cambridge, UK: Cambridge University Press, 2018), 27–41.

7 Stephen Gardbaum, "The Counter-Playbook: Resisting the Populist Assault on Separation of Powers," *Columbia Journal of Transnational Law* 59, no. 1 (2020), https://doi.org/10.2139/ssrn.3485761.

8 M. J. C. Vile, *Constitutionalism and the Separation of Powers*, 2nd ed. (Indianapolis: Liberty Fund, 1998), 1–22.

9 Guillermo O'Donnell, "Horizontal Accountability: The Legal Institutionalization of Mistrust," in *Democratic Accountability in Latin America*, eds. Scott Mainwaring and Christopher Welna (Oxford: Oxford University Press, 2003), 34–54.

10 John Rawls, *Political Liberalism* (Cambridge, Mass.: Harvard University Press, 1993), 291.

Given the aforementioned definitions of radicalization and liberal democracy, I argue that radicalized actors will necessarily take a critical view of liberal democracy in general, and of judicial review in particular, for three reasons.[11] First, the executive's radicalization pushes for policies that represent an existential threat to other actors' interests or values (for example, Argentina in 1946–1955 under Perón's first and second terms; Chile in 1970–1973 under the Allende presidency; Spain in 1931–1936 under the Second Republic), who then have heightened incentives to try to block the policies or to try to remove the president.[12] Hence, the opposition is itself radicalized in order to respond to the executive's impatience and intransigence. Opposition actors might even believe that the use of "institutional strategies" and "moderate goals" are inadequate to stop an executive who is perceived as willing to go "all the way."[13] This increases the level of political confrontation and creates uncertainty about how resilient institutions will be.[14] Compromise is less likely because the stakes that actors face are high and because actors conceptualize their differences as "non-divisible" or "either-or" conflicts instead of "divisible conflicts over more or less."[15]

The dynamic interaction between different radicalized actors transforms multidimensional and crosscutting conflicts into unidimensional confrontations in which politicians and citizens understand politics in an antagonistic way.[16] Radicalization can increase because it tends to be a self-reproducing process when actors' actions and perceptions of each other reinforce each other over time. Early events in a confrontational sequence generate movement in one direction that is reinforced by the presence of new events that push the process in the same direction. The process self-amplifies because it is "expanded, increased, strengthened, and enhanced."[17] In this sequence, all actors end up understanding politics in a warlike fashion wherein "force monitors persuasion, might establishes right, and conflict resolution is sought in terms of the defeat of the enemy—of the 'other' looked on as a *hostis* [Latin: public enemy]."[18] Actors perceive that they have "public and fundamental disagreements about how their shared system should be structured."[19] In extreme situations, both radicalized groups can embrace mutually exclusive "ways of life" and "highest values" which undermine democratic stability.[20] Radicalization undermines key values that are fundamental for democratic stability: prudence, moderation, tolerance, patience, reformism, and a pragmatic view of politics.[21]

11 Mainwaring and Pérez-Liñán, *Democracies and Dictatorships in Latin America*, 37, 43–44.

12 Adam Przeworski, *Crises of Democracy* (Cambridge, UK: Cambridge University Press, 2019), 8.

13 Laura Gamboa, *Resisting Backsliding: Opposition Strategies against the Erosion of Democracy* (Cambridge, UK: Cambridge University Press, 2022).

14 Gerard Alexander, *The Sources of Democratic Consolidation* (Ithaca, NY: Cornell University Press, 2018).

15 Albert O. Hirschman, "Social Conflicts as Pillars of Democratic Market Society," *Political Theory* 22, no. 2 (May 1994), 212–214, https://doi.org/10.1177/0090591794022002001.

16 Jennifer McCoy, Tahmina Rahman, and Murat Somer, "Polarization and the Global Crisis of Democracy: Common Patterns, Dynamics, and Pernicious Consequences for Democratic Polities," *American Behavioral Scientist* 62, no. 1 (January 2018), 18, https://doi.org/10.1177/0002764218759576.

17 Tulia G. Falleti and James Mahoney, "The Comparative Sequential Method," in *Advances in Comparative-Historical Analysis*, eds. James Mahoney and Kathleen Thelen (Cambridge, UK: Cambridge University Press, 2015), 220–223.

18 Giovanni Sartori, *The Theory of Democracy Revisited* (London: Chatham House Publishers, 1987), 41–42.

19 Nancy Bermeo, *Ordinary People in Extraordinary Times: The Citizenry and the Breakdown of Democracy* (Princeton: Princeton University Press, 2003), 227.

20 Robert A. Dahl, *Polyarchy: Participation and Opposition* (New Haven: Yale University Press, 1971), 105.

21 Norberto Bobbio, *Left and Right: The Significance of a Political Distinction* (Chicago: University of Chicago Press, 1996), 25.

Second, as noted above, radicalization implies a feeling of impatience: that is, a strong commitment to the immediate implementation of a package of public policies, in many cases inspired by certain values or ideologies. Therefore, radicalized actors are only interested in either maintaining or implementing substantive outcomes, not upholding a specific political regime. Their attitude towards political regimes is conditional on how well they serve the achievement of one's policy goals. Liberal democracy is a political regime, a specific set of institutions and procedures, not a policy outcome.[22] The electoral dimension of democracy requires that parties who lose elections respect the results and accept that elections have uncertain results.[23] Moreover, since electoral majorities change over time, it is very unlikely that a political party who defends a fixed set of public policies will remain in power forever. Additionally, in order to win elections and have legislative support, parties may need to moderate their platforms and negotiate with other parties.[24] In conclusion, electoral competition by no means guarantees accomplishing the substantive goals that radicalized actors aim to achieve.

Third, by design, liberal democracies include complex institutional arrangements consisting of multiple veto players that make it difficult for executives to implement radical economic and social changes.[25] Opposition parties, economic actors, the media, unions, religious institutions, and civil society organizations can use multiple institutional mechanisms to either block or severely limit public policies and institutional reforms that the executive wants to implement.[26] There are multiple scenarios in which a radicalized president would face severe limitations on his or her policies. If the president does not have a majority in Congress, the opposition can block legislative initiatives from the incumbent party. Even if there is a unified government and the executive is able to get legislation passed, the state bureaucracy has numerous mechanisms to either delay or significantly alter the implementation of public policies.[27] Even when the president has support from the bureaucracy and the legislature, audit bodies, ombudsman's offices, human rights commissions, electoral management bodies, and anti-corruption agencies can expose wrongdoings and abuse of power by public officials.[28] Even if the incumbent party controls the executive, Congress, the bureaucracy, and agencies of horizontal accountability, individual rights protect individuals from the abuses of state power. Therefore, the scope of the government's power in implementing public policies and regulating

22 Juan J. Linz, *The Breakdown of Democratic Regimes: Crisis, Breakdown, and Reequilibration* (Baltimore: Johns Hopkins University Press, 1978), 5–7.

23 According to Adam Przeworski: "The fact that uncertainty is inherent in democracy does not mean everything is possible or nothing is predictable. Contrary to the favorite words of conservatives of all kinds, democracy is neither chaos nor anarchy. Note that 'uncertainty' can mean that actors do not know what can happen, that they know what is possible but not what is likely, or that they know what is possible and likely but not what will happen. Democracy is uncertain only in the last sense. Actors know what is possible, since the possible outcomes are entailed by the institutional framework; they know what is likely to happen, because the probability of particular outcomes is determined jointly by the institutional framework and the resources that the different political forces bring to the competition. What they do not know is which particular outcome will occur." Adam Przeworski, *Democracy and the Market: Political and Economic Reforms in Eastern Europe and Latin America* (Cambridge, UK: Cambridge University Press, 1991), 12–13.

24 Adam Przeworski, *Capitalism and Social Democracy* (Cambridge, UK: Cambridge University Press, 1985); Adam Przeworski and John Sprague, *Paper Stones: A History of Electoral Socialism* (Chicago: University of Chicago Press, 1986).

25 George Tsebelis, *Veto Players: How Political Institutions Work* (Princeton: Princeton University Press, 2002).

26 Andrew Arato and Jean L. Cohen, *Populism and Civil Society: The Challenge to Constitutional Democracy* (Oxford: Oxford University Press, 2021).

27 Tom Ginsburg and Aziz Z. Huq, *How to Save a Constitutional Democracy* (Chicago: University of Chicago Press, 2018), 101–107.

28 Mark Tushnet, *The New Fourth Branch: Institutions for Protecting Constitutional Democracy* (Cambridge, UK: Cambridge University Press, 2021).

civil society is necessarily constrained. In particular, the judiciary can block public policies and institutional reforms when judges consider that they infringe on constitutionally-protected individual rights.[29]

In conclusion, liberal democracies are political regimes that will very likely produce high levels of dissatisfaction and frustration among radicalized actors. In situations in which judges block numerous decisions by a radicalized president elected in free and fair elections, it is not surprising that the executive will develop a populist narrative against the judiciary and try to implement reforms to undermine its independence.

Two Sequences of Radicalization

In many countries, radicalized presidents show an early, strong, and well-defined commitment to implementing public policies and institutional reforms that they expect will generate staunch resistance from certain actors (see Diagram 1). These presidents are probably aware that autonomous judges can stop their preferred institutional reforms and public policies, since they were appointed by previous political elites whom these presidents oppose.[30] Also, in cases where the opposition controls Congress, presidents may feel threatened by the possibility of being removed through an impeachment procedure, and the co-optation of the judiciary would give them an important advantage for blocking the opposition.[31] Moreover, elected presidents who have considerable popular support often see adversarial courts as actors controlled by the elites to protect the interests of "an oligarchical enemy, the deep state" instead of serving and protecting "the people."[32] The president's decision to implement illiberal reforms predates any actions taken by the judiciary or the opposition. In fact, the reforms are designed as a pre-emptive attack with the goal of neutralizing the opposition and the courts.

29 Cristina Lafont, "Philosophical Foundations of Judicial Review," in *Philosophical Foundations of Constitutional Law*, eds. David Dyzenhaus and Malcolm Thorburn (Oxford: Oxford University Press, 2016): 265–282.

30 Nuno Garoupa and Maria A. Maldonado, "Judiciary in Political Transitions: The Critical Role of US Constitutionalism in Latin America," *Cardozo Journal of International and Comparative Law* 19 (2011), 595–596, https://doi.org/10.4337/9781785369216.00007.

31 Gretchen Helmke, *Institutions on the Edge: The Origins and Consequences of Inter-Branch Crises in Latin America* (Cambridge, UK: Cambridge University Press, 2017), 129–135.

32 Andrew Arato, "Populism, Constitutional Courts, and Civil Society," in *Judicial Power: How Constitutional Courts Affect Political Transformations*, ed. Christine Landfried (Cambridge, UK: Cambridge University Press, 2019), 332.

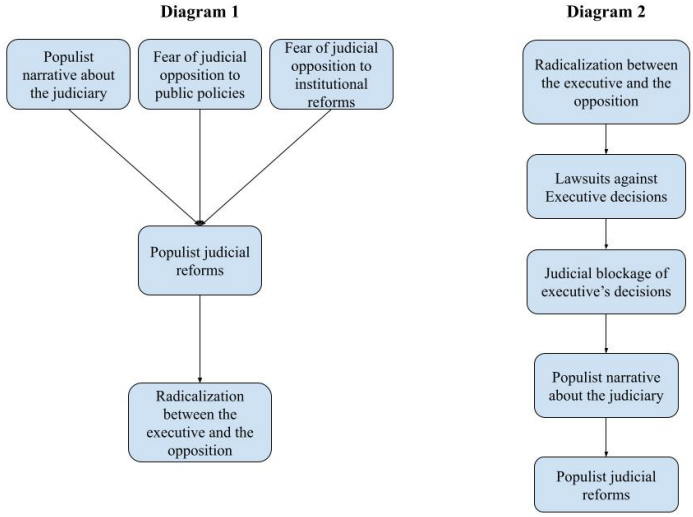

DIAGRAM 1. First Sequence of Radicalization
DIAGRAM 2. Second Sequence of Radicalization

One of the clearest examples of a president committed to undermining judicial independence from the very beginning of his term has been Hugo Chávez in Venezuela (1999–2013). Chávez's main campaign promise in 1998 was the convocation of a constituent assembly to draft a new constitution.[33] The constitution-making process allowed the executive to remove almost all of the existing justices and appoint new loyal justices in less than a year.[34] The constituent assembly also began the process of co-opting the lower courts by creating an ad-hoc entity, which replaced about one-third of lower-level judges without following any constitutional procedure.[35] Besides the extreme case of Chávez, there are many other examples of Latin American presidents who very early in their terms either attempted to or even succeeded in effectively neutralizing/co-opting the judiciary in order to implement public policies and/or bring about other institutional reforms: Juan Perón in Argentina (1946–1955),[36] Alberto Fujimori in Peru (1990–2000),[37] Carlos Menem in

33 Diego González Cadenas, *Un proceso constituyente democrático en Venezuela: La g*énesis de la Constitución de 1999 (Bogotá: Ediciones Uniandes, 2020).

34 Carlos Ayala, "El secuestro de la independencia judicial," in *Libro homenaje a la Academia de Ciencias Políticas y Sociales en el centenario de su fundación, 1915–2015*, vol. I (Caracas: Academia de Ciencias Políticas y Sociales, 2015), 239–242.

35 Rogelio Pérez Perdomo, "Medio siglo de historia judicial en Venezuela (1952–2005)," *Cuadernos Unimetanos*, no. 11 (September 2007), 18.

36 Ezequiel Abasolo, "La Corte Suprema durante el régimen peronista (1947–1955)," in *Historia de la Corte Suprema Argentina, Tomo II: El período de la discontinuidad inconstitucional (1947–1983)*, ed. Alfonso Santiago (Buenos Aires: Marcial Pons, 2014).

37 Yusuke Murakami, *Perú en la era del chino: La política no institucionalizada y el pueblo en busca de un salvador* (Lima: Instituto de Estudios Peruanos, 2012), 241–313.

Argentina (1989–1999),[38] Álvaro Uribe in Colombia (2002–2010),[39] Evo Morales in Bolivia (2006–2019),[40] and Rafael Correa in Ecuador (2007–2017).[41] Contemporary examples of this radicalization sequence outside Latin America include the cases of Viktor Orbán in Hungary (2010–present) and the Law and Justice (PiS) party government in Poland (2015–present).[42]

In this article, I use theory-building process tracing to theorize an alternative sequence of events that lead to the creation of a populist narrative (see Diagram 2).[43] I show that a president's populist narrative about the proper role of the judiciary can arise *endogenously* as a consequence of a sequence of events produced by the interaction of the government, social actors, and opposition parties. In particular, I present a causal narrative of certain events that occurred during Cristina Fernández's administrations in Argentina (2007–2015), which shows that a radicalization process between the incumbent party and opposition actors can gradually lead the government to adopt a populist conception of the judiciary, and which eventually leads to the implementation of reforms that can undermine judicial independence. Once the president is determined to implement policies and/or institutional reforms that are considered extreme by opposition actors, the opposition will likely go to the courts to challenge the reforms' constitutionality. In cases where the judiciary is not under the control of the executive branch, and judges find the opposition's arguments persuasive, the president's decisions will likely be stopped by the courts. Ultimately, the adoption of a populist conception of the judiciary is a reaction to judges' decisions to block the executive branch's decisions.

The Gradual Development of the Populist Narrative against a Liberal Conception of the Judiciary, 2007–2015

Since the collapse of the last military dictatorship in 1983, presidential democracy in Argentina has remained the only game in town despite multiple economic and political crises.[44] Within this post-1983 period, there has been significant economic and political instability, including two periods of hyperinflation (in 1989, and again in 1990), an intense economic and social crisis between 1998 and 2002, and the early resignation of two presidents from the Radical Party. The party system has also changed since 1983. Until the mid-1990s it was dominated by two parties, the Partido Justicialista (PJ) and the Unión Cívica Radical (UCR). However, over time the UCR's share of national votes in presidential and legislative elections declined, while the

38 Alfonso Santiago, "La Corte de los Nueve (1990–2003)," in *Historia de la Corte Suprema Argentina, Tomo III: El período de la restauración democrática (1983–2013)*, ed. Alfonso Santiago (Buenos Aires: Marcial Pons, 2014).

39 Javier Duque, *El presidente y las cortes: Las Altas Cortes en Colombia y sus relaciones con el Poder Ejecutivo* (Cali, Colombia: Universidad del Valle, 2012), 89–220.

40 Aníbal Pérez-Liñán and Andrea Castagnola, "Bolivia: The Rise (and Fall) of Judicial Review," in *Courts in Latin America*, eds. Gretchen Helmke and Julio Rios-Figueroa (Cambridge, UK: Cambridge University Press, 2010).

41 Efrén Guerrero Salgado, "Reforma del estado como mecanismo de control en democracia delegativa: Caso reforma judicial Ecuador 2007–2014" (PhD dissertation, Universidad Complutense de Madrid, 2016).

42 Wojciech Sadurski, *Poland's Constitutional Breakdown* (Oxford: Oxford University Press, 2019); Kriszta Kovács and Kim Lane Scheppele, "The Fragility of an Independent Judiciary: Lessons from Hungary and Poland—and the European Union," *Communist and Postcommunist Studies* 51, no. 3 (August 2018): 189–200.

43 Derek Beach and Rasmus Brun Pedersen, *Process-Tracing Methods: Foundations and Guidelines* (Ann Arbor: University of Michigan Press, 2019), 269–277.

44 Scott Mainwaring and Emilia Simison, "Economic Crisis, Military Rebellions, and Democratic Survival: Argentina, 1983–2021" in *Democracy in Hard Places*, eds. Scott Mainwaring and Tarek Masoud (Oxford: Oxford University Press, 2022).

importance of third parties rose.[45] The economic structure also went through a deep transformation in the 1990s when President Carlos Menem implemented broad pro-market reforms that included privatization of state companies, labor deregulation, and reduction of trade barriers. Although these reforms successfully brought down hyperinflation and created economic growth, by the end of the decade the economy entered a recession, leading to increased poverty, unemployment, and wealth inequality.

This situation ended in an unprecedented economic, political, and social crisis in 2001, which led President Fernando de la Rúa from the UCR to resign. An interim Peronist president took office until the 2003 presidential election. Given the collapse of the UCR, that election was decided among different factions within the PJ. Néstor Kirchner, a Peronist governor from the far southern Patagonian province of Santa Cruz, was elected to a four-year term. From the outset, Kirchner proposed a set of policies that were the polar opposite of what Menem had done a decade before: interventionist economic policies, expansion of the social safety net, prosecuting military officers who were accused of human rights violations during the last military dictatorship, a strong alliance with unions and social movements, and prioritizing relations with other Latin American countries over those with the United States. These policies clearly located his administration on the progressive side of the political spectrum and made him part of Latin America's left turn.[46] However, his presidency had important differences with the most radical examples of the "pink tide" (for example., Hugo Chávez, Evo Morales, and Rafael Correa).[47] Kirchner never proposed a wholesale rewrite of the Constitution, used the police or the armed forces to repress political demonstrations, relied upon the judiciary to prosecute journalists and opposition politicians, or proposed any media regulations. Moreover, he decided to broaden his coalition by including politicians from non-Peronist parties.[48] This is corroborated by the V-Party expert-coded assessments of the level of illiberalism (v2xpa_illiberal)[49] of the Peronist Party, which was 0.22 in 2003 and 0.20 in 2005, in contrast to Chávez's Fifth Republic Movement score of 0.946 in 1998, and Correa's Alianza País score of 0.95 in 2007.[50]

From the beginning of his term, Kirchner took different measures that increased judicial independence. Days after he took office, he started pushing for important changes to the Supreme Court. A majority of the sitting judges had been subjected to staunch criticism due to their lack of independence from the Menem Administration and their support for executive decisions of dubious constitutional validity.[51] Kirchner's

45 Carlos Gervasoni, "Argentina's Declining Party System: Fragmentation, Denationalization, Factionalization, Personalization and Increasing Fluidity," in *Party Systems in Latin America: Institutionalization, Decay, and Collapse*, ed. Scott Mainwaring (Cambridge, UK: Cambridge University Press, 2018).

46 Steven Levitsky and Kenneth M. Roberts, eds., *The Resurgence of the Latin American Left* (Baltimore: Johns Hopkins University Press, 2011).

47 Kurt Weyland, Raúl L. Madrid, and Wendy Hunter, eds., *Leftist Governments in Latin America: Successes and Shortcomings* (Cambridge, UK: Cambridge University Press, 2010).

48 Marcos Novaro, Alejandro Bonvecchi, and Nicolás Cherny, *Los límites de la voluntad: Los gobiernos de Duhalde, Néstor y Cristina Kirchner* (Ariel, 2014).

49 This is an index built with expert survey responses to four questions: (1) whether politicians use personal attacks or demonize their opponents; (2) the extent to which politicians are committed to free and fair elections; (3) how often parties claim that the will of the majority should be implemented even if it violates minority rights; and (4) the degree to which politicians explicitly discourage the use of violence. When this index's value is 0, it represents a state of complete liberalism, while a value of 1 represents total illiberalism.

50 Anna Lührmann et al., "Codebook Varieties of Party Identity and Organization (V–Party) V1," Varieties of Democracy (V–Dem) Project, 2020; Anna Lührmann et al., Varieties of Party Identity and Organization (V-Party) Dataset V1, Varieties of Democracy (V-Dem) Project, 2020, https://www.v-dem.net/data/v-party-dataset/.

51 Alba M. Ruibal, "Self-Restraint in Search of Legitimacy: The Reform of the Argentine Supreme Court," *Latin American Politics and Society* 51, no. 3 (fall 2009): 59–86, https://doi.org/10.1111/j.1548-2456.2009.00056.x.

decision to move forward with the impeachment of Menem-appointed justices led to a total reshaping of the Court. Kirchner's four newly-appointed justices were regarded as independent and prestigious, not having strong links to the incumbent party or the president's circle.[52] Also, the appointment process had an unprecedented level of transparency by including public hearings and active participation of civil society actors. Moreover, Kirchner also supported reducing the size of the Supreme Court, which deprived him of the ability to appoint extra justices.[53] The new justices were not willing to simply support any and every executive decision since the new justices were strongly committed to maintaining their independence and strengthening the judiciary.[54] Despite enhancing the independence of the Supreme Court, Kirchner decided to introduce, from 2006 to 2007, multiple legislative changes that increased significantly the powers of the executive vis-à-vis Congress, the governors, and the lower courts.[55]

The success of Kirchner's economic policy, the weakness of non-Peronist parties, and the disarray of opposition factions within the PJ explains why Kirchner won the 2005 midterm elections and Cristina Fernández de Kirchner, his wife and an influential senator, was elected as his successor in 2007 by a margin of nearly 20 points over the next runner-up. During the presidential campaign, Fernández's proposals were moderate and pluralistic; in addition, her candidate for vice president was a governor from the Radical Party, the main opposition party.[56] The name of the political coalition that Kirchner and Fernández created was called the Plural Arrangement (Concertación Plural). She explicitly emphasized that her future administration was going to improve "the institutional quality" of Argentina: she insisted that the country needed to be stable, and promised that her government was going to be plural, open, and heterogeneous, incorporating politicians from different parties, always promoting "social dialog."[57] Moreover, she strongly rejected any political projects that proposed the creation of "hegemonic exclusions," and she differentiated herself from those who wanted to create false conflicts and antinomies.[58] Therefore, it is unsurprising that the V-Party illiberalism score for the incumbent party in 2007 was 0.241, very similar to the scores for this party for 2003 and 2005. However, in 2008 the government began to radicalize its preferences, which substantially increased its V-Party illiberalism scores to 0.345 in 2009, 0.378 in 2011, and then 0.395 in 2013.

A few months after Cristina Fernández took office in December 2007, an unexpected conflict unleashed a process of radicalization between the government, the opposition parties, economic actors, and the media. In March 2008, the minister of economy,

52 Daniel Brinks, "Judicial Reform and Independence in Brazil and Argentina: The Beginning of a New Millennium," *Texas International Law Journal* 40, no. 3 (spring 2005), 608–613.

53 Irina Hauser, *Los supremos: Historia secreta de la Corte, 2003–2016* (Buenos Aires: Planeta, 2016).

54 Ricardo Lorenzetti, "Políticas de Estado para el Poder Judicial," 2007, https://www.cij.gov.ar/politicas-de-estado-para-el-poder-judicial.pdf; Ricardo Lorenzetti, *El arte de hacer justicia: La intimidad de los casos más difíciles de la Corte Suprema de Argentina* (Bogotá: Temis, 2015).

55 Mario Serrafero, "Argentina: Tres reformas institucionales del kirchnerismo," *Revista Aragonesa de Administración Pública* 41–42 (2013): 449–468.

56 Alberto Fernández, *Políticamente incorrecto: Razones y pasiones de Néstor Kirchner* (Buenos Aires: Ediciones B, 2011), 183–191.

57 Novaro, Bonvecchi, and Cherny, *Los límites de la voluntad*, 259–263.

58 Mariano Obarrio, "'El cambio institucional va en serio,' " *La Nación*, December 8, 2007, https://www.lanacion.com.ar/politica/el-cambio-institucional-va-en-serio-nid969306/?R=bf8374; Diego Schurman, "Lanzamiento en clave de concertación," *Página/12*, August 15, 2007, https://www.pagina12.com.ar/diario/elpais/1-89725-2007-08-15.html; "En el lanzamiento de la fórmula, Cristina Kirchner defendió con fuerza la concertación oficialista," *Clarín*, August 14, 2007, https://www.clarin.com/ediciones-anteriores/lanzamiento-formula-cristina-kirchner-defendio-fuerza-concertacion-oficialista_0_SkNVZeyCFx.html; Diego Schurman, " 'Ya decían que nos íbamos a separar,' " *Página/12*, October 5, 2007, https://www.pagina12.com.ar/diario/elpais/1-92503-2007-10-05.html.

Martín Lousteau, raised the tax rate on a variety of agricultural exports, a decision quickly objected to by the four main organizations that represented agricultural producers. For the next three months, they organized multiple strikes, suspended sales and distribution of grains and meat, staged massive demonstrations, and blocked key highways and roads. In turn, the government, unions, and some social movements reacted by organizing multiple demonstrations and rallies against the rural organizations. Both sides exhibited radicalized preferences.[59] Despite the fact that multiple rounds of negotiations were conducted between the government and the agricultural producers, no definitive agreement was reached. Moreover, the government framed the conflict in terms of an existential battle between fighting for a "country with more justice, with more equality, with better income distribution," or an elitist and unequal country in which "just a few" can live well.[60]

The executive's decision to raise export taxes was not only blocked by the direct action taken by rural organizations; many judges ruled that it was unconstitutional to raise taxes without congressional approval.[61] Moreover, some Supreme Court justices privately warned the president that they were not going to support raising taxes by presidential decree instead of a law approved by Congress, given the explicit constitutional prohibition against it.[62] Given the staunch resistance of rural organizations and the lack of support in the courts, Fernández tried instead to raise taxes through passing a law—which itself failed in July 2008 because the legislative coalition that supported the administration fractured, with even the vice president voting against the bill.

This conflict over tax policy changed the dynamic of Argentinian politics partially because of how the administration interpreted it: as a struggle between "the people" and "the oligarchy."[63] The administration perceived the reaction by the rural organizations as a sign of a nefarious alliance between powerful economic interests, the media, and opposition parties with the ultimate goal of forcing President Fernández to resign.[64] The administration claimed to be under attack because the president had committed an "sin" in the eyes of the elites—that is, "being voted for by a majority of Argentinians in free, open, and democratic elections."[65] According to the administration's narrative, the agricultural organizations and their supporters were undemocratic because they resisted a decision made by a government elected by the people. Moreover, the government characterized this conflict not as an economic dispute over tax policy, but "a political conflict created by those special interest groups who condemn our human rights policies and those who lost the [last] election."[66]

59 Sergio Berensztein and María Elisa Peirano, *La primera revuelta fiscal: La 125 y el conflicto con el campo* (Buenos Aires: Margen Izquierdo, 2020).

60 "Discurso de Cristina Fernández en el acto de firma de convenios entre AySA y municipios bonaerenses," Pink House website, March 25, 2008, https://www.casarosada.gob.ar/informacion/archivo/16818-blank-.

61 "Nuevo freno judicial a las retenciones móviles," Diario Judicial (website), May 30, 2008, https://www.diariojudicial.com/nota/57552/noticias/nuevo-freno-judicial-a-las-retenciones-moviles.html.

62 Silvana Boschi, *Los Secretos de la Corte* (Buenos Aires: Margen Izquierdo, 2017), 106–107; Joaquín Morales Solá, "La Corte, otra barrera para las retenciones," *La Nación*, June 2, 2008, https://www.lanacion.com.ar/politica/la-corte-otra-barrera-para-las-retenciones-nid1026592/; "Días de zozobra para los Kirchner," *Clarín*, June 29, 2008, Opinión, https://www.clarin.com/opinion/dias-zozobra-kirchner_0_ryVfA33RpKe.html.

63 Novaro, Bonvecchi, and Cherny, *Los límites de la voluntad*, 306; Eduardo Levy Yeyati and Marcos Novaro, *Vamos por todo: Las 10 decisiones más polémicas del modelo* (Buenos Aires: Sudamericana, 2013).

64 "Néstor Kirchner: 'Somos soldados de la causa nacional,' " *Perfil*, April 11, 2008, Política, https://www.perfil.com/noticias/politica/Nestor-Kirchner-Somos-soldados-de-la-causa-nacional--20080410-0055.phtml.

65 "Encuentro por la convivencia y el diálogo en Plaza de Mayo," Pink House website, April 1, 2008, https://www.casarosada.gob.ar/informacion/archivo/16854-blank-16096543.

66 "Palabras de la Presidenta [*sic*] en el encuentro en Parque Norte," Pink House website, March 27, 2008, https://www.casarosada.gob.ar/informacion/archivo/16831-blank-23506459.

Moreover, Fernández stated that the rural organizations and their supporters were defenders of the last military dictatorship.[67] Former President Kirchner went even further and explicitly said that the rural organizations were repeating the same actions of those civilians and military officers who had participated in military coups and violated human rights.[68] What started as a disagreement about a technical-administrative decision to raise agricultural export taxes ended up reinvigorating the historical Peronism/anti-Peronism cleavage.[69]

This conflict had a direct and quick spillover effect on the relationship between the government and the media. In the midst of the 2008 conflict, Gabriel Mariotto, the official in charge of the regulatory media agency, stated that "the mother of all battles is a new broadcast media law."[70] At different points during the confrontation with the agricultural associations, members of the incumbent party expressed the idea that these and other powerful economic actors were actively using the media as a weapon against the people. For instance, President Fernández said, "This time they did not come with tanks, this time it's been with some multimedia 'generals' who, besides supporting the *lock out* [*sic*: blackout] against the people, have done an information *lock out* [*sic*], changing, distorting, giving only one side of the story."[71] In this view, while in the past the armed forces were used by economic actors to topple "national and popular" governments, now the media had become the preferred tool used by economic interests. The media was not only lying to the people; it was trying to silence the president—that is, trying to disrupt her connection to the people.[72]

Fernández's rhetoric initiated a process of intense confrontation between the government and the media, in particular with Grupo Clarín, Argentina's largest media conglomerate.[73] In reflecting upon this time, a member of Cristina Fernández's administration has made a connection between the 2008 conflict and the 2009 media law:

> With the conflict with the agricultural organizations, we all had a very strange sensation. Until that moment, politics was more or less normal, and then all of a sudden, the voice of the incumbent party disappeared from all TV stations. What we said, what we communicated, was absent in the media … We felt that they turned off all the microphones, it was a very fast and sudden process that did not happen before in Argentinian politics.[74]

67 "Palabras de la Presidenta [*sic*] en el encuentro en Parque Norte," Pink House website.

68 "Conflicto del campo, Néstor Kirchner en la Plaza de los Dos Congresos," Cristina Fernández de Kirchner personal website, July 15, 2008, https://www.cfkargentina.com/conflicto-del-campo-nestor-kirchner-en-la-plaza-de-los-dos-congresos/.

69 Fernando Chávez Solca, "El conflicto con el campo de 2008 en Argentina: Reactivación y desplazamiento del clivaje peronismo-antiperonismo," *Revista de Estudios Sociales Contemporáneos*, no. 25 (2021): 283–306, https://doi.org/10.48162/rev.48.023.

70 "'La madre de todas las batallas es una nueva ley de radiodifusión,' " *La Nación*, April 13, 2008, Cultura, https://www.lanacion.com.ar/cultura/la-madre-de-todas-las-batallas-es-una-nueva-ley-de-radiodifusion-nid1003957/.

71 "Encuentro por la convivencia y el diálogo en Plaza de Mayo," Pink House website.

72 "Encuentro por la convivencia y el diálogo en Plaza de Mayo," Pink House website.

73 Philip Kitzberger, "Media Wars and the New Left: Governability and Media Democratisation in Argentina and Brazil," *Journal of Latin American Studies* 48, no. 3 (2016), 459, https://doi.org/10.1017/S0022216X15001509.

74 High-ranking official in President Cristina Fernández's administration, interview by the author.

According to his testimony, the government believed that it was urgent and necessary to implement a media law, because otherwise "nobody would hear anything we say."

Reflecting on that year, a high-ranking official from President Néstor Kirchner's previous administration told me that:

> there is a change in 2008, the government starts to create antagonisms with the agricultural producers, with *Clarín*, with 'the oligarchy,' it embraces a different conception of politics in which nobody can be neutral, there are only two sides, a confrontation between friends and enemies … the influence of the left in the government is much higher, including intellectuals such as Ernesto Laclau and his ideas.[75]

Multiple opposition politicians share this view about how 2008 was a critical juncture in terms of the levels of radicalization between the administration and the opposition.[76]

After building a broad social and political coalition, the incumbent party was able to pass in October 2009 a law against excessive media concentration, which limited the number of licenses that one company can hold.[77] Therefore, Grupo Clarín and other important media organizations would have to be broken up into smaller independent firms. Soon after the media law was passed, Clarín implemented a far-reaching legal strategy against the constitutionality of the media law. It succeeded. The media conglomerate obtained in December 2009 a temporary injunction that included a stay of the law's implementation. This injunction was renewed multiple times by different judges until October 2013, when the Supreme Court upheld the law's constitutionality.[78] However, Clarín then obtained new injunctions challenging the way the government was implementing the law between 2014 and 2015.[79]

Besides the media law, the administration systematically criticized the media and portrayed journalists as neither independent nor autonomous actors.[80] Instead, the government alleged that media actors were just puppets of powerful economic forces who used them against the people.[81] Professional journalism was just a "window-dressing" of economic interests, used by the opposition against the government.[82]

75 High-ranking official of President Néstor Kirchner's administration, interview by the author.

76 One senator and three deputies from opposition parties, interviews by the author.

77 Martín Becerra and Guillermo Mastrini, "The Audiovisual Law of Argentina and the Changing Media Landscape," *Political Economy of Communication* 2, no. 1 (July 2014), http://www.polecom.org/index.php/polecom/article/view/31/213.

78 "La Corte Suprema declaró la constitucionalidad de la Ley de Medios," Centro de Información Judicial website, October 29, 2013, https://www.cij.gov.ar/nota-12394-La-Corte-Suprema-declar--la-constitucionalidad-de-la-Ley-de-Medios.html.

79 "Favorecen a las corporaciones," *Página/12*, December 20, 2014, https://www.pagina12.com.ar/diario/elpais/1-262370-2014-12-20.html; "Ley de medios: la Cámara confirmó una medida cautelar que frena la adecuación de oficio de Clarín," *La Nación*, February 20, 2015, https://www.lanacion.com.ar/politica/ley-de-medios-la-camara-confirmo-una-medida-cautelar-que-frena-la-adecuacion-de-oficio-de-clarin-nid1770079/; "Ley de Medios: Extienden la cautelar a Clarín," *La Nación*, June 11, 2015, Política, https://www.lanacion.com.ar/politica/ley-de-medios-extienden-la-cautelar-a-clarin-nid1800766/.

80 Graciela Mochkofsky, *Pecado original: Clarín, los Kirchner y la lucha por el poder* (Buenos Aires: Planeta, 2011); Philip Kitzberger, "La madre de todas las batallas: El kirchnerismo y los medios de comunicación," in *La política en tiempos de los Kirchner*, eds. Andrés Malamud and Miguel De Luca (Buenos Aires: Eudeba, 2011).

81 Silvio Waisbord, *Vox populista: Medios, periodismo, democracia* (Barcelona: Gedisa, 2014).

82 Silvio Waisbord, "Democracy, Journalism, and Latin American Populism," *Journalism* 14, no. 4 (May 2013), 510, https://doi.org/10.1177/1464884912464178.

The executive also implemented a judicial strategy by charging the owners of the newspapers *Clarín* and *La Nación*[83] with crimes against humanity during the last military dictatorship,[84] and of money laundering.[85] Finally, the courts stopped the government from taking control over the only Argentinian paper-producing company[86] and collecting a tax from *La Nación* that would have imposed a significant financial burden on the newspaper.[87] Regarding the latter decision, President Fernández blamed the courts for allowing this newspaper to "rip the people off."[88]

"The Judicial Oligarchy" and the Need to "Democratize the Judiciary," 2010–2015

Until 2010, neither the government nor any member of the incumbent coalition identified the judiciary as an actor that was part of this coalition "against the people."[89] The involvement of the judiciary in the conflict between the government and the media is the origin of the development of Kirchnerism's populist conception of the courts and its attempt to implement a judicial reform in 2013 that could have severely jeopardized judicial independence.[90] The strong criticisms against the judiciary began in January 2010 when some judges ruled that the president could not use a decree to order the central bank to use its reserves to pay the country's external debt.[91] Former President Kirchner (whose wife Cristina Fernández was by this time president) interpreted the fact that judges and the opposition were using similar arguments against the government as a "clear alliance of the judicial party

83 *La Nación* is an important newspaper with a center-right orientation.

84 "Papel Prensa: piden imputar a Magnetto, Noble y Mitre por extorsión," April 24, 2014, http://infojusnoticias.gov.ar/nacionales/papel-prensa-piden-imputar-a-magnetto-noble-y-mitre-por-extorsion-3865.html.

85 "El Gobierno vuelve a la carga por Papel Prensa: Acusaría de lavado a sus accionistas e incautaría bienes," *El Cronista*, November 14, 2013, Economía y Política, https://www.cronista.com/economia-politica/El-Gobierno-vuelve-a-la-carga-por-Papel-Prensa-acusaria-de-lavado-a-sus-accionistas-e-incautaria-bienes-20131114-0116.html; "Papel Prensa: Rechazaron a la UIF como querellante en la causa," *Perfil*, March 13, 2015, Política, https://www.perfil.com/noticias/politica/papel-prensa-rechazaron-a-la-uif-como-querellante-en-la-causa-20150313-0033.phtml; Francisco Peregil and Alejandro Rebossio, "El Kirchnerismo maniobra para quitar a Clarín su fábrica de papel de periódicos," *El País* (Spain), May 10, 2013, Internacional, https://elpais.com/internacional/2013/05/11/actualidad/1368223842_571246.html.

86 "Ordenan el fin de la intervención en Papel Prensa," *La Nación*, September 1, 2010, Política, https://www.lanacion.com.ar/politica/ordenan-el-fin-de-la-intervencion-en-papel-prensa-nid1300349/; "La Justicia ordenó que cese [*sic*] la intervención a Papel Prensa," *El Cronista*, September 2, 2010, Política, https://www.cronista.com/impresa-general/La-Justicia-ordeno-que-cese-la-intervencion-a-Papel-Prensa-20100902-0082.html; Adrián Ventura, "La Justicia separó a Moreno de Papel Prensa," *La Nación*, December 22, 2010, Política, https://www.lanacion.com.ar/politica/la-justicia-separo-a-moreno-de-papel-prensa-nid1335662/.

87 Three anonymous sources who belong to the judiciary, interviews by the author; "Un amparo que pone freno a la AFIP," Diario Judicial (website), July 16, 2010, https://www.diariojudicial.com/nota/20560; "Una a favor de los diarios," April 22, 2010, https://www.diariojudicial.com/nota/61750.

88 "Entregamos la jubilación número 450 mil de la moratoria previsional," Cristina Fernández de Kirchner personal website, April 7, 2015, https://www.cfkargentina.com/moratoria-jubilaciones-cristina-kirchner/.

89 In March 2007, President Kirchner publicly asked some judges of the Criminal Law Federal Court of Cassation to speed up human rights trials. Some members of his administration asked some of the judges on the Court to resign. However, these criticisms were not formulated according to the populist script that characterized the attacks against the judiciary after 2010. Also, Kirchner directed his criticisms towards a very specific group of judges, rather than challenging the judiciary's right to conduct judicial review; "Palabras del Presidente de la Nación, doctor Néstor Kirchner, en el acto de conmemoración del 'Día Nacional de la Memoria, por la Verdad y la Justicia,' " Pink House website, March 24, 2007, https://www.casarosada.gob.ar/informacion/archivo/25040-blank-34934954; "Desde el Gobierno pidieron la renuncia del juez de Casación," *La Nación*, March 27, 2007, Política, https://www.lanacion.com.ar/politica/desde-el-gobierno-pidieron-la-renuncia-del-juez-de-casacion-nid894909.

90 Alberto Bianchi, "Una Reforma Inconstitucional," in *Historia de la Corte Suprema Argentina, Tomo III: El período de la restauración democrática (1983–2013)*, ed. Alfonso Santiago (Buenos Aires: Marcial Pons, 2014).

91 Boschi, *Los Secretos de la Corte*, 93–94; Hauser, *Los supremos*, 238–240; Martín Redrado, *Sin reservas: Un límite al poder absoluto* (Buenos Aires: Planeta, 2010).

with [Grupo Clarín CEO Héctor] Magnetto and [Vice President Julio] Cobos."[92] In Kirchner's view, the fact that judges, the media, and opposition parties were in agreement was confirmation that they were conspiring against the government: "The head of the conspiracy is Magnetto, Clarín, the vice president, the opposition parties, and the judicial party."[93] From that moment onward, any adverse ruling was interpreted as an attempt to "condition the government and restrict its room to maneuver."[94] Every time a judge or a prosecutor questioned the executive's decree or law, the perception was that these actors were trying to govern the country.[95]

Kirchner popularized this new term, "the judicial party," to describe the behavior of judges who ruled against the government. The term, which has since continually been used by members of the incumbent party, drew a clear equivalence between the judiciary and political parties. The assumptions behind the term followed a simple logic: (1) judges are partisan actors, and therefore they are intrinsically biased; (2) the judiciary is not an independent branch of government whose role is to adjudicate legal disputes according to ordinary statutes, constitutional provisions, and international law; (3) judges are not and cannot be independent actors who rule according what they believe is the correct interpretation of the law.

As in the case of journalists, according to Kirchner's populist rhetoric, judges are always dependent on "concentrated economic powers" who directly control them: "We need judges who rule not by following the front page of *Clarín*, but according to civil and criminal law."[96] Frequently, President Fernández has claimed that judges were bought off by powerful media and economic groups,[97] and members or her party said that there are judges who release prisoners in exchange for money.[98] From 2010 until the end of Fernández's second term, the president and multiple members of the incumbent party used these criticisms whenever judges ruled in a way that the president disliked, claiming that "The judicial party" is a "new battering ram against the government of the people, that it "works in coordination with concentrated economic powers and, mainly, with the monopolistic media trying to destabilize the executive branch and disregarding the legislature's decisions. That is, a superpower above the institutions arising from the popular vote." [*sic*][99]

After three years of legal battles on the injunction against the media law, on December 9, 2012, President Fernández, in a massive political rally, made an explicit connection between the behavior of the judiciary at that time against her administration and

92 "Kirchner: 'Hay sectores que quieren derrotar al Gobierno antes de fin de año,'" *La Nación*, January 25, 2010, Política, https://www.lanacion.com.ar/politica/kirchner-hay-sectores-que-quieren-derrotar-al-gobierno-antes-de-fin-de-ano-nid1225742/.

93 See Kirchner on the TV show *678*, Televisión Pública YouTube channel, "678 23-12-10 (1 de 3) Néstor en 678," https://youtu.be/sRooxaoRwL0?t=2760 (46:00–47:00).

94 Congressperson from the Justicialist Party, interview by the author; "Cristina Kirchner afirmó que la Justicia ata 'de pies y manos' al Estado," *La Nación*, October 7, 2010, Economía, www.lanacion.com.ar/economia/cristina-kirchner-afirmo-que-la-justicia-ata-de-pies-y-manos-al-estado-nid1312544/.

95 Congressperson from the Justicialist Party, interview by the author.

96 "Grave denuncia de la Presidenta contra la Justicia," *La Nación*, March 2, 2010, https://www.lanacion.com.ar/politica/grave-denuncia-de-la-presidenta-contra-la-justicia-nid1238817/.

97 Mariano Obarrio, "La Presidenta [*sic*] denunció un intento de destitución y desafió a la Justicia," *La Nación*, March 5, 2010, Política, https://www.lanacion.com.ar/politica/la-presidenta-denuncio-un-intento-de-destitucion-y-desafio-a-la-justicia-nid1239980/.

98 "El kirchnerismo reiteró que hay jueces que 'son alquilados,' " Infobae (website), March 11, 2010, https://www.infobae.com/2010/03/11/505035-el-kirchnerismo-reitero-que-hay-jueces-que-son-alquilados/.

99 "18F, el bautismo de fuego del partido judicial," Cristina Fernández de Kirchner personal website, February 21, 2015, https://www.cfkargentina.com/18f-el-bautismo-de-fuego-del-partido-judicial/.

the Supreme Court's support of military coups against popular leaders in the past.[100] She explicitly said that the Supreme Court was partially responsible for "the darkest period of our history," since the Court validated the first military coup in 1930. By that time, the populist conception of the judiciary was clear when she contrasted the strong popular legitimacy of the executive and legislative branches with the fact that the judiciary "has remained untouched by the popular will" and under the constant influence of "economic powers and the corporations."[101] In her view, the existence of a judiciary that does not obey the incumbent party—the party that represents the will of the people—harms democracy. Commenting on an injunction that favored the Sociedad Rural Argentina, an organization that represented big landowners, Fernández stated that "This not only breaks down the principle of equality before the law, but it also leads to there being a superpower branch above the executive and the legislative branches."[102]

For her, the social makeup of the judiciary also reflected its lack of democratization. It was an elitist and aristocratic body determined to maintain its privileges: "The judiciary is aristocratic and only judges' children and friends can get into it. It is a kind of clique. This is why a thoroughgoing reform is needed, in order to throw open its doors, and to allow the people to participate."[103] The proposed solution to this threat to democracy was to "democratize the judiciary," to pack it with judges who would not go against the will of the people: "we need a judiciary that serves the people."[104] A legitimate judiciary would be one characterized by "people's power" instead of "aristocratic power," one that follows the will of the people instead of corporate interests.[105]

These strong criticisms against the judiciary as a conservative and aristocratic actor strongly resonated with a group of judges, lawyers, prosecutors, and legal scholars, who created an organization called "Legitimate Justice" at the beginning of 2013.[106] In its founding document, they insisted that judges "should be independent from the economic interests of big corporations, from media conglomerates, from judges of higher instances—and they should even be independent from the organizations that represent them."[107] They pushed for a renewed judicial system, one whose main goal should be to strengthen the state and defend the people against interference from "sectors of concentrated economic power" and "the hegemonic media."[108] Members of

100 "9 de Dic. Día de los Derechos Humanos y la Democracia. Cristina Fernández." Casa Rosada – República Argentina YouTube channel, December 9, 2012, https://www.youtube.com/watch?v=WBfuvi8Z88s.

101 "9 de Dic. Día de los Derechos Humanos y la Democracia. Cristina Fernández." Casa Rosada – República Argentina YouTube channel, December 9, 2012, https://www.youtube.com/watch?v=WBfuvi8Z88s.

102 " 'Esta cámara ha traspasado todos los límites,' dijo la Presidenta [*sic*]," *La Nación*, January 6, 2013, Política, https://www.lanacion.com.ar/politica/esta-camara-ha-traspasado-todos-los-limites-dijo-la-presidenta-nid1543226/.

103 "Cristina Kirchner aseguró que el fallo de la ley de medios la 'dejó sin habla,' " *La Nación*, April 18, 2013, *Política*, https://www.lanacion.com.ar/politica/cristina-kirchner-aseguro-que-el-fallo-de-ley-de-medios-la-dejo-sin-habla-nid1573883/.

104 "9 de Dic. Día de los Derechos Humanos y la Democracia. Cristina Fernández." Casa Rosada – República Argentina YouTube channel, December 9, 2012, December 9, 2012, https://www.youtube.com/watch?v=WBfuvi8Z88s.

105 Three high-ranking officials of Cristina Fernández's government and a congressperson from the Justicialist Party, interviews by the author.

106 Three members of Legitimate Justice, interviews by the author; María José Sarrabayrouse Oliveira, "Desnaturalización de categorías: Independencia judicial y acceso a la justicia—los avatares del proceso de Democratización de la Justicia en Argentina," *Colombia Internacional* 84 (2015): 139–159.

107 "Pronunciamiento de jueces, defensores, fiscales y funcionarios," Centro de Información Judicial website, December 11, 2012, https://www.cij.gov.ar/nota-10467-Pronunciamiento-de-jueces--defensores--fiscales-y-funcionarios.html; member of the Judicial Council, interview by the author.

108 Raúl Kollmann, "Por una Justicia 'justa,' " *Página/12*, January 6, 2013, https://www.pagina12.com.ar/diario/elpais/1-211306-2013-01-06.html.

Legitimate Justice also felt that judges' interpretation of the law is always biased and that judges cannot be neutral or impartial because they are political and ideological actors.[109] They argued that judges need to be aware that they are immersed in social and economic struggles and they need to interpret the law with an awareness of power asymmetries.[110] In this sense, for Legitimate Justice, Kirchnerism had brought an awareness of how the judiciary had consciously (or unconsciously) served as a tool for certain political interests. "Beforehand, we judges talked about clothes or about vacations; now we talk about politics," said Legitimate Justice President María Laura Garrigós de Rébori, who added, "Today it is an unavoidable topic in any meeting."[111]

After the creation of a populist narrative about what a legitimate judiciary should look like, the incumbent party passed a comprehensive judicial reform at the end of April 2013, called "The Democratization of the Judiciary." The core of the reform implied that the members of the Judicial Council (the state entity involved in the process of appointing, sanctioning, and removing judges) would be chosen through national elections. As a consequence of how it was designed, the party in power would have had total control over it.[112] In the opening of the 2013 legislative year, President Fernández reiterated that the judiciary remained untouched by the forces of democracy and that the doors of the judiciary need to be opened up to the people.[113] When explaining the content of the judicial reform, Fernández said that her husband and immediate predecessor, President Néstor Kirchner, had initiated a profound democratization of the state in 2003 and that it was time that ordinary citizens participated in the judiciary.[114]

After dozens of judges found that the judicial reform was unconstitutional, the administration said that this opposition to the "democratization of the judiciary" was the reaction of elitist judges who wanted to maintain their privileges against the will of the people.[115] Various members of the incumbent party affirmed that judges must not stop the political will of the representatives of the Argentinian people; when the judiciary blocks the will of the people, it is taking the side of the status quo.[116] As President Fernández said a few days before the Supreme Court undermined her intended judicial reform:

> I am prepared to face anything in order to have a better-organized country, in which the three branches of government are totally democratic and open to the people and most importantly independent from big corporations … So, I ask myself when someone asserts, some of these constitutional scholars or theorists assert, that the judiciary is a "counterpower" inside

109 Ángel Bruno, "La democratización del Poder Judicial," *Página/12*, March 4, 2013, https://www.pagina12.com.ar/diario/elpais/1-215036-2013-03-04.html.

110 Bruno, "La democratización del Poder Judicial."

111 Irina Hauser, "'Antes los jueces hablábamos de ropa o de vacaciones, ahora hablamos de política'," *Página/12*, June 2, 2013, https://www.pagina12.com.ar/diario/elpais/1-221402-2013-06-02.html.

112 For more on the Judicial Reform, see Bianchi, "Una Reforma Inconstitucional."

113 "Mensaje de Cristina a la Asamblea Legislativa," Cristina Fernández de Kirchner personal website, March 1, 2013, https://www.cfkargentina.com/cristina-inauguro-las-sesiones-ordinarias-del-congreso-2013/.

114 "Proyecto de democratización de la Justicia," Cristina Fernández de Kirchner personal website, April 8, 2013, https://www.cfkargentina.com/proyecto-de-democratizacion-de-la-justicia/.

115 Mariano Obarrio, "El oficialismo atribuye el fallo a una 'justicia corporativa,' " *La Nación*, June 13, 2013, Política, https://www.lanacion.com.ar/politica/el-oficialismo-atribuye-el-fallo-a-una-justicia-corporativa-nid1591480/.

116 "Embate desde el kirchnerismo por los frenos a la reforma del Consejo," *La Nación*, June 1, 2013, Política, https://www.lanacion.com.ar/politica/embate-desde-el-kirchnerismo-por-los-frenos-a-la-reforma-del-consejo-de-la-magistratura-nid1587658/; Obarrio, "El oficialismo atribuye el fallo a una 'justicia corporativa.' "

> the institutions, I ask myself, "A counterpower to what? A counterpower to the people?" Those who think of themselves as a "counterpower" in the judiciary, I inform them that more than being counterpowers to the power of the people, I think they are delegates of other powers.[117]

Members of the incumbent party said that judges should not act as part of a system of checks and balances on the people because they believed that "the people cannot vote for something that is unconstitutional,"[118] and that "in a democracy, the majority controls the three branches of government."[119] Julián Domínguez, the speaker of the Chamber of Deputies, reaffirmed that "we are the representatives of the will of the people and, therefore, judges cannot stop the political will,"[120] and that "the judiciary needs to stop fearing the people."[121] According to Julio Alak, the minister of justice, there was nothing more constitutional than the people choosing the members of the judicial council (the institutional actor that is involved in the appointment, sanctioning, and removal of lower-court judges).[122]

The core of the judicial reform proposed by the president was quickly nullified by the Supreme Court in the ruling on the *Rizzo* case (June 2013).[123] The justices explained at length the legal and theoretical foundations underlying the proper role of the judiciary in a liberal-democratic regime. After the Supreme Court overturned the judicial reform, President Fernández lamented that it had been invalidated since "it was a very good law [to create] a comptroller of the judiciary; it cannot be that we are all monitored and that there is only one actor that answers to no one."[124] In 2014, she repeated that the judiciary validated the legitimacy of all the military coups, while the political parties that represented the people were vilified and attacked by the military. She contrasted once again the legitimate popular foundations of the executive and legislative branches with "the judiciary, the only branch of government that is self-governing and self-selecting even through mechanisms that, one of these days, ought to change."[125] She was convinced that these changes in the judiciary were inevitable, that sooner or later they were going to happen: "it is a biological question. Some sectors of that branch [the judiciary] are still occupied by the dinosaurs, but

117 "Cristina habló de los jueces de la Corte y dijo: 'No me gustan los desmemoriados en la República Argentina,'" Todo Noticias (TN) website, June 10, 2013, Política, https://tn.com.ar/politica/la-presidenta-esta-democratizacion-de-la-justicia-me-va-a-acarrear-algunos-problemas-pero-estoy-disp_394032/?outputType=amp, (2:30–3:30); "Quiero plantear la independencia del Poder Ejecutivo de los grandes poderes concentrados de afuera y de adentro," Cristina Fernández de Kirchner personal website, June 10, 2013, https://www.cfkargentina.com/cristina-cfk-democratizacion-de-la-justicia-corte-suprema-poder-judicial/.

118 Obarrio, "El oficialismo atribuye el fallo a una 'justicia corporativa."

119 " 'La mayoría gobierna en los tres poderes,' " *La Nación*, April 11, 2013, https://www.lanacion.com.ar/politica/la-mayoria-gobierna-en-los-tres-poderes-nid1571582/.

120 "Embate desde el kirchnerismo por los frenos a la reforma del Consejo," *La Nación*.

121 Obarrio, "El oficialismo atribuye el fallo a una 'justicia corporativa."

122 "'Por primera vez dejamos de simular que la Justicia tiene un orden natural'," *Página/12*, May 14, 2013, https://www.pagina12.com.ar/diario/ultimas/20-219968-2013-05-14.html.

123 The *Rizzo* ruling is available at Centro de Información Judicial website, "La Corte declaró inconstitucional [*sic*] cambios en el Consejo de la Magistratura," June 18, 2013, www.cij.gov.ar/nota-11694-La-Corte-declar--inconstitucional-cambios-en-el-Consejo-de-la-Magistratura.html.

124 "Mensaje de Cristina a la Asamblea Legislativa," Cristina Fernández de Kirchner personal website, March 2, 2014, https://www.cfkargentina.com/cristina-asamblea-legislativa-2014/.

125 "Homenaje de Cristina Kirchner a Perón e Yrigoyen," Cristina Fernández de Kirchner personal website, July 1, 2014, https://www.cfkargentina.com/homenaje-de-cristina-kirchner-a-peron-e-yrigoyen. On this last point, it is unclear what she is referring to since Congress and the president are the only actors involved in the appointment and removal of Supreme Court justices. Regarding the lower courts, representatives of the president and Congress form a majority at the Judicial Council, which is involved in the appointment, sanctioning, and removal of judges.

dinosaurs are destined to go extinct, new blood is coming in everywhere, whether they like it or not."[126] At the end of 2014, in a massive political rally, Fernández rattled off the list of challenges that she and former President Kirchner faced. She said that, afterwards, the corporations resorted to using their "media hitmen" and allied "judicial henchmen" to weaken her administration.[127]

Judges against "National and Popular Leaders," 2015–Present

At the end of 2014, another element began to be incorporated into the administration's narrative against the judiciary when judges started to investigate corruption cases more intensively. Indeed, one of the most politically damaging actions against the government was the investigation of Amado Boudou, who served as Cristina Fernández's vice president, for corruption charges. Only five months after the Fernández-Boudou ticket won by a landslide in the 2011 presidential elections, the judicial investigation started. A trial judge moved forward and indicted Boudou in 2014 on influence peddling and bribery charges.[128] Until the end of Fernández's term, the government framed these actions as part of a legal-political persecution. For instance, the chief of the cabinet of ministers commented multiple times that this was the consequence of "a judicial and media attack on members of the executive branch."[129] Also, the president indicated that members of her administration, the attorney general, and some prosecutors were victims of political persecution and harassment by the judiciary when they were summoned by different judges to give statements.[130] The connection between the media, the judiciary, and the persecution of supporters of the administration was drawn explicitly by her: "there are some judges who are very afraid of the media and especially of Clarín … It is awful having to live in a country where judges issue rulings according to their degree of fear of being criticized or persecuted … this should come to an end if we really want to live in a democracy."[131] On this topic, one member of the administration indicated that "there is an impunity pact between the media corporation and the judicial corporation [*sic*]."[132]

After Cristina Kirchner left the presidency in 2015, her criticisms of the judiciary intensified as a consequence of multiple judicial investigations against her and members of her administration. The term often used to describe this new situation was "lawfare": a political-judicial practice that aims to inhibit Latin American populist leaders from running for office in order to protect "neoliberal" presidents who were

126 "Quieren tirar abajo la reestructuración para volver a endeudarnos en cientos de miles de millones de dólares," Cristina Fernández de Kirchner personal website, September 30, 2014, https://www.cfkargentina.com/cristina-kirchner-patio-militante-30-09-2014/.

127 "Feliz cumpleaños democracia argentina," Cristina Fernández de Kirchner personal website, December 13, 2014, https://www.cfkargentina.com/discurso-de-cristina-kirchner-en-el-festejo-de-31-anos-de-democracia-en-argentina/.

128 Natalia Volosin, *Corruption in Argentina: Towards an Institutional Approach* (Abingdon: Routledge, 2020), 123–138.

129 "Capitanich: 'Hay una arremetida corporativa, mediática, judicial,' " Pink House website, February 20, 2015, https://www.casarosada.gob.ar/informacion/archivo/28397-capitanich-hay-una-arremetida-corporativa-mediatica-judicial.

130 "Feliz cumpleaños democracia argentina," Cristina Fernández de Kirchner personal website, December 13, 2014. See also "Apertura del 133° período de sesiones ordinarias del Congreso de la Nación," March 1, 2015, https://www.cfkargentina.com/discurso-completo-de-la-presidenta-cristina-Fernández -de-kirchner-apertura-del-133-periodo-de-sesiones-ordinarias-del-congreso-de-la-nacion-cfkapertura2015/.

131 "Acto de inauguración de la quinta edición de Tecnópolis," July 17, 2015, https://www.cfkargentina.com/acto-de-inauguracion-de-la-quinta-edicion-de-tecnopolis/.

132 "Capitanich: 'Hay una arremetida corporativa, mediática, judicial,' " Pink House website.

implementing economic policies against the interests of the people.[133] In this view, Fernández's successor, the center-right President Mauricio Macri (2015–2019), in league with the Supreme Court, lower courts, prosecutors, and the media, resorted to illegal practices to indict and imprison politicians from the "democratic and popular camp."[134] According to the populist script, while Fernández was president, the "judicial party" blocked the executive's decisions that could have harmed the interests of the media or important economic sectors. Instead, the populist narrative argues that when the executive is directly under the control of these economic elites, judges started to act to prevent popular leaders from returning to office.[135]

To conclude, I follow Pierre Ostiguy's conceptualization of populism to locate the place of the judiciary within Cristina Fernández's populist script more generally (see Diagram 3).[136] Based on the elite interviews I conducted and the analysis of multiple speeches, I argue that she systematically divides the political space into popular and anti-popular forces. The popular forces are comprised of "the people" and the "national and popular" movement that Fernández incarnates. Also, the Argentinian people have the international support of other Latin American peoples and their popular leaders. On the other hand, the domestic anti-popular coalition is under the leadership of a "nefarious minority" comprised of economic actors and the media that also have the support of "hostile global/international forces" (such as the International Monetary Fund, transnational corporations, and vulture funds). Finally, there are local "state or political elites" (the opposition parties and "the judicial party") who are also part of the domestic "anti-populist" coalition, but they clearly have a subordinate role insofar as they just implement orders coming a "nefarious local minority" and "hostile global/international forces."[137]

133 Rafael Bielsa and Pedro Peretti, *Lawfare: Guerra Judicial-Mediática—desde el primer centenario hasta Cristina Fernández de Kirchner* (Buenos Aires: Ariel, 2019). N.B. This use refers to the term's appropriation into Spanish by the authors of this book. In English, its use is generally restricted to the realm of international relations, as a form of international conflict strategy short of outright warfare, or to contests over matters related to national security or intelligence gathering.

134 "Día de la Democracia y de los Derechos Humanos," Cristina Fernández de Kirchner personal website, December 10, 2021, https://www.cfkargentina.com/dia-de-la-democracia-y-de-los-derechos-humanos-en-plaza-de-mayo/. See also "Discurso en el anuncio de obras de viviendas y escuelas," Cristina Fernández de Kirchner personal website, December 18, 2020, https://www.cfkargentina.com/discurso-en-el-anuncio-de-obras-de-viviendas-y-escuelas-en-la-ciudad-de-la-plata/; "A un año… balance," Cristina Fernández de Kirchner personal website, December 9, 2020, https://www.cfkargentina.com/a-un-ano-balance/; "Conferencia en la Universidad Nacional Autónoma de Honduras: 'Los pueblos siempre vuelven,' " Cristina Fernández de Kirchner personal website, January 26, 2022, https://www.cfkargentina.com/los-pueblos-siempre-vuelven/.

135 In many instances the United States is also included as an important actor in this "anti-populist" coalition. See Silvina M. Romano, ed., *Lawfare: Guerra judicial y neoliberalismo en América Latina* (Madrid: Mármol Izquierdo, 2019).

136 See Pierre Ostiguy, "Populism: A Socio-Cultural Approach," in *The Oxford Handbook of Populism*, ed. Cristóbal Rovira Kaltwasser et al. (Oxford: Oxford University Press, 2017), 76–78; Pierre Ostiguy, "The Socio-Cultural, Relational Approach to Populism," *Partecipazione e Conflitto* 13, no. 1 (2020), 40–41, http://siba-ese.unisalento.it/index.php/paco/issue/view/1724.

137 See, for instance, Cristina Fernández's final speech before the end of her second administration: "Cristina en la última Plaza de su segundo período presidencial," Cristina Fernández de Kirchner personal website, https://www.cfkargentina.com/discurso-de-cristina-kirchner-en-la-ultima-plaza-de-su-segundo-periodo-presidencial; Cristina Fernández de Kirchner, *Sinceramente* (Sudamericana, 2019), 373; Alejandra Vitale, "The Farewell Speech of Cristina Fernández de Kirchner," in *Rhetorics of Democracy in the Americas*, eds. Adriana Angel, Michael Butterworth, and Nancy Gomez (University Park: Pennsylvania State University Press, 2021), 187. For the meaning of the terms "nefarious local minority" and "hostile global/international forces," see Ostiguy, "The Socio-Cultural, Relational Approach to Populism," 40–41.

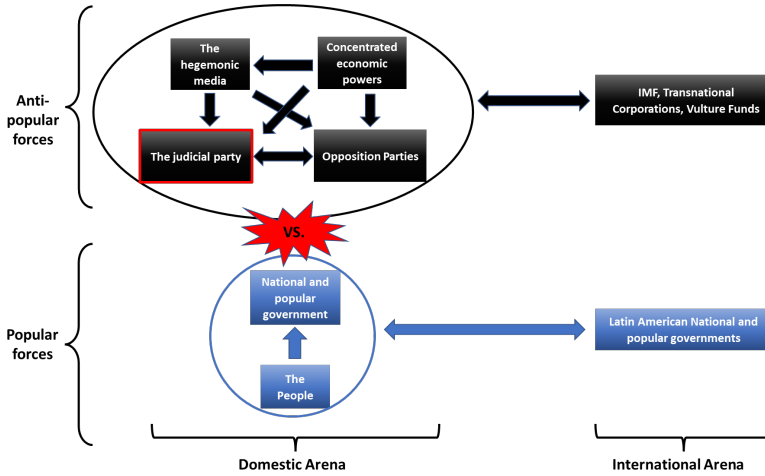

DIAGRAM 3. Cristina Fernández's Populist Script

It logically follows from the premises of Cristina Fernández's populist script that the separation of powers among different branches of government is extremely undesirable for implementing public policies that reflect the will of the people. The system of checks and balances and the classical liberal understanding of what a constitution is, allows concentrated economic powers and hostile global/international forces to infiltrate the state and co-opt opposition parties and judges who protect their interests against the people. In November 2018, then-former president Fernández participated in the International Forum for Critical Thought and gave a presentation entitled "Capitalism, Neoliberalism, and the Crisis of Democracy." She explicitly proposed the replacement of the system of separation of powers through checks and balances with new institutions that could preserve the functioning of democracy in a globalized world in which domestic and international economic actors as well as the media enjoy much more power than the nation-state and remain totally unregulated and uncontrolled by the Constitution.[138] In April 2022, she reiterated that the liberal-republican constitutions that provide for the separation of powers have weakened the state, making it vulnerable to being co-opted by social and economic elites. The existing constitutions are antiquated, since they do not recognize that the "real power" is not located within the state, but lies with domestic and international economic actors. Therefore, in her view, it is necessary to create new institutions that centralize the power of the state in order to avoid social and economic elites from controlling it.[139]

138 "Cristina Fernandez De Kirchner - Capitalismo, neoliberalismo y crisis de la democracia - #CLACSO2018," CLACSO TV YouTube channel, November 19, 2018, https://youtu.be/Yq-ENh--J1Q?t=2696 (45:00–52:00).

139 "Discurso en la apertura de la decimocuarta sesión plenaria de Eurolat," Cristina Fernández de Kirchner personal website, April 13, 2022, https://www.cfkargentina.com/discurso-en-la-apertura-de-la-decimocuarta-sesion-plenaria-de-eurolat-en-el-centro-cultural-kirchner/.

Conclusion

An in-depth analysis of the Argentinian case shows that it is critical to differentiate various types of non-liberal conceptions of the judiciary: that is, those seemingly inseparable from a more comprehensive illiberal ideology and those that arise, largely by accident, within a particular policy confrontation in which the administration and the opposition adopt an intransigent stance. In the latter case, the populist narrative is created as a consequence of the radicalization between the president and opposition actors. In particular, I have traced how the radicalization of Cristina Fernández's administration and different actors (mainly the media) led to the creation of a populist narrative about the legitimate role of the judiciary in a democracy. Although one cannot simply treat Cristina Fernández and her predecessor and husband, Néstor Kirchner, as expressing one and the same viewpoint, it is notable that neither Kirchner nor Fernández displayed any particular hostility to the judiciary prior to 2010. In this sense, Fernández and Kirchner clearly depart from the pattern of other Latin American presidents who are considered as part of the region's "left turn" (for example, Hugo Chávez, Rafael Correa, and Evo Morales). Hence, the Fernández administration's increasingly hostile rhetoric regarding the judiciary represents a case in which a particular policy controversy can generate opposition to an independent judiciary, even where no prior desire to undermine an independent judiciary is publicly expressed. Indeed, Fernández displayed both (1) impatience and (2) intransigence in attempting to achieve certain policy goals, leading her to not only reject compromise with the opposition, but also to perceive the media as well as the judiciary as illegitimately standing in the way of these same policy goals. What resulted was a process of radicalization, not only of those who initiated this process (namely, the Fernández administration) but also different opposition actors, who responded in kind to the perceived inflexibility of the executive.

Insofar as Cristina Fernández and her supporters began to see the judiciary as a political opponent because the latter proved to be an obstacle to the chief executive's policies regarding the media (2009–2015), I argue that the president adopted a populist stance toward the judiciary by seeking to undermine its independent status and ability to conduct judicial review—that is to say, Kirchnerism's narrative about the proper role of the courts in a democracy directly challenged one element that is a necessary component of liberal democracy and also of the Argentinian Constitution. Moreover, the analysis of dozens of speeches reveals that Kirchnerism's understanding of the judiciary is not only illiberal but also strongly populist (as illustrated in Diagram 3). Cristina Fernández and many members of her administration believed that the judiciary should be subordinated to the will of the people, which is, in turn, expressed by a "national and populist government." However, this neither implies that she also embraced other more extreme versions of illiberalism, nor that she had a well-defined plan to replace democracy with an authoritarian regime.

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The Illiberal Experience in Venezuela: The Transition from Representative Democracy to Authoritarianism

FRANCISCO ALFARO PAREJA

Abstract

At the end of the 20th century, Venezuela transitioned from being a representative liberal democracy to becoming a form of electoral authoritarian state through a hybrid regime based on illiberal democracy. The crisis of the representative democracy paved the way for a coalition formed by groups close to the radical left and the military establishment headed by Hugo Chávez Frías, who took the electoral route, after having first tried and failed to lead a coup, to reach the presidency with popular support due to widespread social unrest, to take power in 1999. This transition was carried out, at the local level, progressively by the actions of an illiberal and revolutionary regime, as a deliberate reaction against representative liberal democracy. The paper examines the illiberal experience in Venezuela between 1999 and 2007 and its background. While it is true that illiberalism does not always create the conditions that lead to the inevitable transition to an authoritarian regime, the Venezuelan case is an example of its use in the continual dismantling of the rule of law, an increasingly common phenomenon in various countries with a democratic tradition.

Keywords: Illiberalism; illiberal democracy; representative democracy; hybrid regime; Venezuela

Francisco Alfaro Pareja
External researcher, Instituto de Investigaciones Históricas Bolivarium, Universidad Simón Bolívar, Venezuela
franciscoalfaropareja@gmail.com; falfaropareja@usb.ve
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When talking about the authoritarian regime that was installed in Venezuela under the government of Hugo Chávez, it is often omitted that this transition was initially brought about not through violent classic means, but through an illiberal model that gradually undermined the pillars of representative liberal democracy, where institutional and legal defenses, both domestic and hemispheric, were late and ineffective in the face of this threat.

In the paper I argue that, even though since 1999 the Venezuelan political system has demonstrated authoritarian practices, it remained democratic until 2007. Certainly, it was an illiberal democracy where the main liberal elements were progressively eroded by a new regime and ideology and populist style of the leadership, while maintaining the other basic elements of democracy: elections and respect for the will of the majority. In this sense, the main objective of this article is to offer an approach to the process of the establishment and rise of illiberal democracy in Venezuela in those first eight years under the Chávez administration, based on the examination of some landmark events.

In the first part of this paper, a very brief discussion of illiberalism as a concept and as a descriptor of a certain kind of democracy will be presented, while contrasting it with its counterparts, liberalism, and liberal representative democracy, for the purpose of clarifying how these concepts are understood and how their characteristics have manifested themselves in the Venezuelan political system. Additionally, some of the illiberal antecedents in the recent history of the country will be examined. This is to aid in understanding the background of the process through Venezuela's period of representative democracy, which lasted from 1958 to 1999. Finally, some of the milestones of democratic decay between 1999 and 2007 under the Chávez administration are examined chronologically to typify how illiberal democracy progressively undermined the previous regime in three phases: (1) establishment, (2) backlash, and (3) rise.

A Brief Discussion of Illiberalism and Illiberal Democracy

In the 20th century, with the advance of the third wave of democratizations, there was a tendency to assume that democracy and liberalism should go hand in hand. In some regimes, the emphasis could be on the former, and in others, on the latter, but these two aspects were understood as a joint package that, should go together, regardless of how difficult the relationship between them might be. However, with the third authoritarian wave, which began in the 1990s, and of which studies such as the Varieties of Democracy Project (V-Dem)[1] reports, two distinctive elements can be observed. On the one hand, this wave affects several democracies that were already established. On the other hand, many of them are progressively undermined not through a classic military coup d'état, but by movements or leaders who come to power through elections and subsequently initiate illiberal projects, as Levitsky and Ziblatt argue.[2]

1 The Varieties of Democracy (V-Dem) Research Project takes a comprehensive approach to understanding democratization. This approach encompasses multiple core principles: electoral, liberal, majoritarian, consensual, participatory, deliberative, and egalitarian. Each principle is represented by a separate index, and each is regarded as a separate outcome in the proposed study. In this manner we reconceptualize democracy from a single outcome to a set of outcomes. See https://www.v-dem.net/.

2 Steven Levitsky and Daniel Ziblatt. *¿Cómo mueren las democracias?* (Barcelona: Ariel, 2018), 13, https://doi.org/10.17230/co-herencia.18.35.14.; for the original English edition, see *How Democracies Die* (New York: Broadway Books, 2018).

In the following paper, the term "illiberal democracy" in Venezuela is understood as the hybrid regime (as described by Morlino),[3] that was established and grew in the period between 1999 and 2007, when representative democracy was deliberately and progressively stripped of its main liberal elements by a new regime and ideology, while maintaining the basic element of respect for the will of the majority. In this sense, in this study Zakaria's coining of "illiberal" as an adjective of democracy is taken into consideration.[4] But it also takes into account some elements highlighted by Laruelle in her concept of illiberalism[5]—specifically those related to a country's previous liberal experience, the conservative update of the vision of the nation, the undermining of trust in institutions and the rights of minorities, the rejection of supranational and multilateral institutions in favor of national sovereignty, the weight of majority criteria and the direct leader-people relationship, and the promotion of a protectionist vision of the economy.[6]

Additionally, it also addresses "illiberal practices" as pointed out by Glasius,[7] such as interference with equal treatment under law; infringement of freedom of expression, the right to a fair trial, or the right to privacy; violations of the right to humane treatment; digital surveillance; and restrictions on nongovernmental organizations. Also, other practices outlined by Applebaum,[8] as well as by McCoy and Somer,[9] are examined, such as the cooptation and/or lack of independence of the judiciary and electoral power, the use of polarization and conspiracy theories, the language of nostalgia, and the coercion of changes in communication patterns.

Although some experts refer to illiberal democracies, where such regimes effectively see their liberal components reduced or eliminated, for others this is an oxymoron, holding that a true democracy cannot be understood without its liberal component. However, other authors, such as Wagrandl, point out that the original, ancient (and at least until the 18th century) idea of democracy was itself illiberal.[10] The liberal component is incorporated only later to the point of the two becoming an almost indissoluble association. Finally, unlike the most common current cases in Europe and the US, inspired by extreme right-wing streams of thought, the Venezuelan brand of illiberalism as it became established and grew between 1999 and 2007 (as with some of the cases elsewhere in Latin America) was inspired by an extreme left-wing ideology and nationalism promoted by the Armed Forces. Applebaum herself, based on

3 Leonardo Morlino, *Changes for Democracy: Actors, Structures and Processes* (Oxford: Oxford University Press, 2012), 56–57.

4 For a deeper exploration of this concept, see Fareed Zakaria, "The Rise of Illiberal Democracy," *Foreign Affairs* 76, no. 6. (November/December 1997): 22–43.

5 For a fuller treatment of this subject, see Marlene Laruelle, "Illiberalism: A Conceptual Introduction," *East European Politics* 38, no. 2 (March 2022), 303–327, https://doi.org/10.1080/21599165.2022.2037079.

6 Nevertheless, even though it denounces neoliberal orthodoxy and promotes protectionism at the nation-state level, when in power, it implements some neoliberal reforms. See Laruelle, "Illiberalism," 309.

7 Marlies Glasius, "Illiberal Practices," in *The Routledge Handbook of Illiberalism*, eds. András Sajó, Renata Uitz, and Stephen Holmes (London: Routledge, 2022): 339–350, https://doi.org/10.4324/9780367260569-27.

8 Anne Applebaum, "Frente a la amenaza del iliberalismo, lo más peligroso es la apatía" (interview translated from the English original), in *La amenaza del iliberalismo: Reflexiones y desafíos para la defensa de la democracia desde cuatro perspectivas*, ed. Francisco Alfaro Pareja (Buenos Aires: Stanley Center / Coordinadora Regional de Investigaciones Económicas y Sociales / GPPAC, 2021): 13–19, http://www.cries.org/wp-content/uploads/2022/04/Anne-Applebaum.pdf.

9 Jennifer Mccoy and Murat Somer, "Political Parties, Elections, and Pernicious Polarization in the Rise of Illiberalism," in *Routledge handbook of illiberalism*, eds. András Sajó, Renata Uitz, and Stephen Holmes (London: Routledge, 2022): 486–504, https://doi.org/10.4324/9780367260569-36.

10 Ulrich Wagrandl, "A Theory of Illiberal Democracy," in *The Routledge Handbook of Illiberalism*, eds. András Sajó, Renata Uitz, and Stephen Holmes (London: Routledge, 2022): 94–118, https://doi.org/10.4324/9780367260569-9.

most of her work, points out that "there is no reason why there cannot be an illiberal left as there is an illiberal right."[11]

A Brief Historical Overview of Illiberalism in Venezuela

From the second decade of the 19th century until its end, it is important to highlight the efforts that were deployed in the form of Venezuelan constitutionalism to guarantee freedoms, constrain power, and implement legal controls to avoid possible abuses by officials and authorities. As Casal says, "often without success, it is true, but in this embryonic moment in which the republic found itself facing all kinds of adversities, including war, it is sufficient that this tension, with its concrete manifestations … has existed to merit this assessment."[12] However, from the end of the 19th century through the first third of the 20th century a deliberate reversal of liberal advances and freedoms was observed, with the consolidation of a long period of authoritarian rule between 1908 and 1935 that brought order under the foundation of a positivist paradigm.

Laureano Vallenilla Lanz, who was perhaps the leading political promoter behind this trend, would emphasize in 1919, with the publication of his book *Cesarismo democrático* (democratic Caesarism),[13] that the personal prestige of the strongman could not be replaced by the impersonal prestige of laws that did not correspond to the conditions of Venezuelan society. More advanced formulas could not be imported from other countries, so he argued, because the result was the disorder and civil wars that the country had suffered during the 19th century. As Vallenilla Lanz points out:

> The true character of Venezuelan democracy has been, since the triumph of independence, individual predominance, having its origin and foundation in the collective will … The democratic Caesar … is always the representative and regulator of popular sovereignty. It synthesizes these apparently antagonistic concepts: democracy and autocracy, that is, democratic Caesarism; freedom under a boss; the individual power arising from the people above a great equal collective …"[14]

As Sosa Abascal, SJ, points out, Vallenilla Lanz's theoretical reasoning appears quite coherent and consistent when taken on his own terms: Juan Vicente Gómez[15] was a historical necessity, a transitory situation demanded by the laws of the development of the history of human societies. His deeds of force constitute the cost that must be paid to advance towards civilization. However, Sosa Abascal notes that, in the end,

11 Applebaum, "Frente a la amenaza," 19.

12 Jesús María Casal, *Apuntes para una historia del derecho de Venezuela*, Colección manuales y obras generales, no. 3 (Caracas: Jurídica Venezolana, 2019), 18.

13 Laureano Vallenilla Lanz, *El cesarismo democrático* (Caracas: Biblioteca Ayacucho, 1991).

14 Laureano Vallenilla Lanz, quoted in Arturo Sosa Abascal, SJ, "El pensamiento político positivista y el gomecismo (fragmentos) (1983)," in *Cesarismo Democrático: A cien años de un gran libro—Entre el debate político y la crítica historiográfica, 1919–2019* (Caracas: Universidad Metropolitana) 186, https://www.unimet.edu.ve/wp-content/uploads/2022/01/Cesarismo-democr%C3%A1tico-Vallenilla-Lanz.pdf.

15 Military leader, statesman, President of Venezuela from December 19, 1908 to December 17, 1935. According to Velásquez, during the 27 years of his stay in power, he did not vary in his customs and maintained the same routine from his time as a landowner and warrior. He was characterized by simplicity in his habits, his distrust of cliques, his direct relationships with people from all social conditions, and his ability to use in his government the personalities of greater intellectual prestige that the country had. See Ramón J. Velásquez, "Gómez, Juan Vicente," in *Diccionario de Historia de Venezuela* (Caracas: Bibliofep Historia, Fundación Empresas Polar), https://bibliofep.fundacionempresaspolar.org/dhv/entradas/g/gomez-juan-vicente/#tope.

this political theory of positivism became a form of political ideology too, with both aspects coexisting both in a complex relationship.[16]

Here, then, is one of the first illiberal antecedents in which it is deliberately proposed, from someone very close to power, to restrict liberal and proto-democratic advances through a concrete ideological approach: only through the order of our effective constitutions is it possible to evolve, "preparing these incipient democracies … to meet the advanced principles stamped in our written constitutions."[17] This would be in spite of the concern in practice with maintaining an appearance of legality, rotation in office, and following constitutional procedures for passing legislation (as opposed to resorting to decree powers) in the Congress during Gómez's autocratic government. Likewise, as Coronil points out, official rhetoric remained nominally liberal, despite blatant contradictions in practice.[18]

Another antecedent of illiberalism, was developed during the period known in Venezuela as the *Trienio* (Triennium, or three-year period), between 1945 and 1948. Carrera Damas calls it the First Liberal Democratic Republic, when political liberties never before seen in the country were promoted through the promulgation of the Constitution of 1947.[19] Among them were universal suffrage by secret ballot, proportional representation of minority parties, the separation of powers, and a prohibition on immediate consecutive presidential re-election as expressed in Article 193: "The President of the Republic may not be re-elected for the immediately following constitutional term."[20] However, considering the overwhelming majority obtained by the party Acción Democrática (AD: Democratic Action) in the elections to the National Constituent Assembly and, subsequently, in the elections for president and congress, there was a turning point when the principle of majority rule was imposed, to the detriment of the interests of minorities.

Regarding this point, Urbaneja emphasizes that the political climate during the Trienio tended to rarefy due to the prevailing attitude within the AD party: on the one hand, it was aggressive towards the conservative sectors of the country (the Catholic Church) and, on the other, arrogant and sectarian towards the minority political sectors led by the parties Comité de Organización Política Electoral Independiente (COPEI: the Independent Electoral Politics Organizing Committee, a Christian social democrat party), the Unión Republicana Democrática (URD: the Democratic Republican Union, a social republican party), and the Partido Comunista de Venezuela (PCV: Communist Party of Venezuela). Finally, AD began to monopolize all the spaces of power, which generated concern among its military partners.

Juan Carlos Rey points out that, although this was an initial experiment in representative democracy, especially during the prelude years of 1945 to 1947, the principle of majority rule tended to prevail over that of liberalism when it came to the fundamental question of limitations on power between 1947 and 1948.

16 Sosa Abascal, SJ, "El pensamiento político positivista," 186–189.

17 Vallenilla Lanz, quoted in Sosa Abascal, SJ, "El pensamiento político positivista," 186–187.

18 Fernando Coronil, *El Estado mágico: Naturaleza, dinero y modernidad en Venezuela* (Caracas: Consejo de Desarrollo Científico y Humanístico, Universidad Central de Venezuela, Nueva Sociedad, 2002), 97.

19 Germán Carrera Damas, quoted in David Ruiz Chataing, "La larga marcha de la democracia en la obra de Germán Carrera Damas," in *Tiempo y Espacio*, July– December 38, no. 74 (Caracas: Universidad Pedagógica Experimental Libertador, 2020): 433–444, https://www.revistas.upel.edu.ve/index.php/tiempo_y_espacio/article/viewFile/8739/5293.

20 Constitución de los Estados Unidos de Venezuela de 1947 (Caracas: Ministerio de Educación Nacional, Dirección de Gabinete, no. 1, July 12, 1947), http://americo.usal.es/oir/legislatina/normasyreglamentos/constituciones/Venezuela1947.pdf.

As a consequence of this dynamic, a very strong opposition made up of opposing parties, circles close to the former dictatorship, businessmen, the Catholic Church, and professional and urban sectors that felt their interests threatened by the government or that they were powerless in the face of it, was generated, and ended in a successful coup d'état in 1948.[21] However, these illiberal practices did not result in the consolidation of an illiberal democratic regime, because this dynamic played out over a short period of time.

Liberal Representative Democracy in Venezuela (1958–1999)

On January 23, 1958, the dictatorship of General Marcos Pérez Jiménez was overthrown by a military rebellion backed by civilians. The years of the brief illiberal prelude and the authoritarian setback lasting a decade left important lessons for the political, social, and economic sectors, and even for those military personnel who aspired to a democratic regime: it was necessary to avoid repeating the mistakes of the first democratic experiment and to unite around the consolidation of a new democratic project. Unlike the First Liberal Democratic Republic (1945–1948), when majority rule was privileged by the sectarianism developed by AD, the Second Liberal Democratic Republic (to use Carrera Damas' phrasing), which was established in January 1958, has been labeled by Rey as the *Sistema Populista de Conciliación de Élites* (Populist System of Elite Conciliation). It was characterized by privileging the principle of liberalism over that of majority rule, and by a maximization of consensus among political elites and a minimization of conflict, all facilitated by the distribution of oil revenue that would increasingly become a determining factor in the governability of the country.[22]

In the words of Rey, contemporary representative democracy constitutes an attempt at conciliation and the synthesis of two political currents that are not only distinct but, at times, antagonistic: liberalism and democracy. Democracy is answer to the question, "Who should exercise political power?"[23] Liberalism, on the other hand, answers a different question, regardless of who exercises power: "How is a country governed, and what should be the government's limits?"[24] In this sense, this model of democracy combines a complementary and complex interaction of these two traditions: respect for the voice of the majority is combined with an institutional and practical framework that does not crush the minority but, on the contrary, ensures the protection of the minority's inalienable rights. Nevertheless, Rey adds the question, "For whom is it governed?"[25] since the mechanisms mentioned above are not enough to define a democracy as representative if the beneficiaries of the policies and public decisions of the government are not to be the people as a whole.

The model that was established beginning in January 1958 was outlined in the Pacto de Avenimiento Obrero Patronal (Labor and Employer Relations Pact), signed on April 24, 1958, and the Pacto de Puntofijo (Puntofijo Pact), signed on October 31, 1958 by the AD, COPEI, and URD parties. According to Urbaneja, the system was based on three fundamental characteristics: (1) a sharing of state power among political parties under the premise that the people were represented through them; (2) the

21 Juan Carlos Rey, "Los tres modelos venezolanos de democracia en el siglo XX," in *La democracia venezolana y sus acuerdos en los cincuenta años de su convenio con la Santa Sede* (Caracas: Konrad Adenauer Stiftung and Universidad Católica Andrés Bello, 2015): 5–34.

22 Rey, "Los tres modelos venezolanos," 5–8.

23 Rey, "Los tres modelos venezolanos," 5.

24 Rey, "Los tres modelos venezolanos," 5–6.

25 Rey, "Los tres modelos venezolanos," 5–6.

distribution of oil revenue among various sectors of society for the achievement of major goals that were important to the county's major interest groups (the business sector, the Church, trade unions, the military, etc.); and (3) the existence of decision-making rules for allocating oil revenue to different sectors and objectives. These rules were based on an obsession with consensus and an aversion to conflict. They had one fundamental objective: to ensure the consolidation of the country's fragile representative democracy above all else in an adverse environment, with real threats emanating from different sides of the ideological spectrum.[26]

It is important to highlight that, even though the Puntofijo Pact formally ceased to be in force in 1962 (when the URD left the unity government coalition), in a broader sense the principles of the Pact would become the basis of the policy that would guide the country over the next 40 years. The Pact, rather than depending on the parties that formally signed it in 1958, was defined by its way of doing politics: the principles it established and which became part of the structure of the political system for decades. Therefore, it was consolidated in practice as a nonviolent way of political, social, and economic coexistence.

An example of this can be seen in the way in which the process of transition, consolidation of democracy, and the drafting and approval of the new constitution was carried out. In short, the process of the discussion, drafting, and legitimization of the new constitution was framed in terms of the uniting "spirit of January 23," and in the main lines of the Puntofijo Pact's ensuring basic popular legitimacy, but prioritizing agreement among political elites. The constitution was ratified in January 1961, with the support of all political forces (including the Communist Party, which was not a signatory of the Puntofijo Pact), thus consolidating the liberal representative democratic system.[27]

Although the parties sought to strategically avoid conflict, there were sectors with some degree of influence in society with whom there was no possibility of reaching consensus. From the beginning, liberal representative democracy faced real and violent threats in several of the governing administrations from two fundamental sectors: groups in the armed forces supportive of military government, and the radical left. Over the years, the Populist System of Elite Conciliation tended to weaken. As Rey states, when there was an adverse change in any of the basic variables of the model (such as oil revenue, efficiency in meeting societal expectations, and the representativeness of the organizations), the threats to the stability of the system could be reasonably compensated for. However, if negative changes in the three factors occurred simultaneously, the sociopolitical system could be strained to its limits. And that is what happened after the first 25 years: representative democracy began to crumble.[28]

In the last decade of the 20th century, three variables coincided decisively in a way they had not previously. Firstly, the political system, whose foundations were based on various agreements between the country's main parties and major interest groups, had been dramatically weakened. Secondly, the discontent of the population, feeling that the governing class was increasingly distant from their interests, was captured, on one hand, by an anti-political current of disenchantment with the AD

26 Diego Bautista Urbaneja, "La política venezolana desde 1899 hasta 1945," in *Temas de formación sociopolítica*, no. 39 (Caracas: AB Ediciones, Fundación Centro Gumilla, 2017), 12–14.

27 Jesús María Casal, "Apuntes para una historia," 206–214.

28 Juan Carlos Rey, *El futuro de la democracia en Venezuela* (Caracas: Universidad Central de Venezuela, 1989), 229–343.

and COPEI parties, and, on the other, by the emergence of a new political movement that coalesced diverse sectors around the figure of Hugo Chávez, one of the military leaders of the attempted coup d'état in February 1992. Straka explains that a kind of genealogy of the convictions of this new coalition includes at least two sources: the thoughts of the guerrilla communist left of the 1960s, especially of the most radical sector that was not pacified by the authorities; and the traditional nationalist Bolivarianism[29] of the Army.[30] Finally, these groups of actors who had threatened the liberal democratic system with an illiberal, authoritarian, and/or revolutionary project by violent means between 1958 and 1992, after many attempts, mutated in their strategy to rise to power by electoral means.

The Breakout of Illiberal Democracy: The Establishment Period (1999–2002)

Although Chávez had ed to follow the path of violence to gain power, his conviction to compete electorally was not always present. Jiménez points out that between 1994 and 1997, Chávez questioned his decision to take this path, because he presumed it was controlled by the "bourgeois state." It will be the political leader of the traditional mainstream left, Luis Miquilena, who managed to convince him that the terminal crisis of the political system offered an extraordinary opportunity to gain power through elections.[31] The surge in support for Chávez implied a deliberate break with the bipartisan political elite who had ruled the country for four decades. While these signs showed a potential rupture with the representative liberal-democratic system, in December 1998 Chávez won the election and the system reacted in a paradox of tolerance, recognizing the legitimacy of a victory by an intolerant politician. His participation in the electoral process and his distancing himself from violent means of taking power were taken as a gesture of rectification and readmission into the liberal-democratic order.

In February 1999, Chávez assumed the position of president at the National Congress and began taking the oath of office as traditionally prescribed, but he then ad-libbed by appending the words "on this dying Constitution"[32] (in reference to the Constitution of 1961). This marked the beginning of the end of the Puntofijo Pact era and what Chávez dismissed as "the disastrous political model to which it [the Constitution] gave birth."[33] Despite this symbolic gesture given just before assuming the presidency, many still thought that the country's democratic institutions, which now shared power with one who posed a threat to their very system, would have the capacity to assimilate this actor and his coalition to the rules of the game and the

29 Bolivarianism is a current of thought that is based on the unrestricted support and exaltation of the ideas of Simón Bolívar, known as "The Liberator" for his leading role in winning the independence of the northern half of Spain's South American colonies. This phenomenon, quite present especially in the Venezuelan Armed Forces, has been called by some historians as the "cult of Bolívar." According to Irwing and Buttó, Bolivarianism can be found in the Venezuelan political reality over the past century, right down to the present, in two different and contradictory versions: (1) an original one, from the 1930s, which is anti-Bolshevik or right-wing to center-right and then, (2) from the end of the 20th century and the beginning of the 21st century, another peculiarly socialist or left-wing one. Both versions are self-proclaimed as authentically Bolivarian. Therefore, one may speak of "Bolivarianisms" (in the plural). Domingo Irwin and Luis Alberto Buttó, "Bolivarianismos y Fuerza Armada en Venezuela," *Nuevo Mundo Mundos Nuevos* (online journal), Débats, January 18, 2006, URL: http://journals.openedition.org/nuevomundo/1320; DOI: https://doi.org/10.4000/nuevomundo.1320.

30 Tomás Straka, "Leer el chavismo: Continuidades y rupturas con la historia venezolana," *Nueva Sociedad*, no. 268 (March/April, 2017): 77–86, https://nuso.org/articulo/leer-el-chavismo/.

31 Rafael Simón Jiménez, *El chavismo: Construcción y ruptura de alianzas* (Caracas: Inédito, 2020), 1.

32 "LEGADO DE CHÁVEZ: Chávez su Discurso Memorable, el día de la Toma Posesión 02-Feb-1999," YouTube video posted by Mario González Ortega, February 2, 1999, original in Spanish, translation by the author, https://www.youtube.com/watch?v=4p_tDYgFRAY, (0:09–2:24).

33 "LEGADO DE CHÁVEZ: Chávez su Discurso Memorable," (1:05:41–1:05:49).

pacts that had been in place for decades. But, as will be seen from this point on, this would not be possible.

Upon reaching power by electoral means, Chávez started to dismantle the structures of representative liberal democracy through several procedures. García Ponce points out that at first he did it through the proposal of a new constitution and the substitution of some official mechanisms for others; second, by appealing to the sovereign power born from the unlimited popular will; third, by issuing calls to do things "the easy way," or else threatening to have to do them "the hard way"; and fourth, through the creation of the Bolivarian Circles (and later other groups) he put in charge of communal and propaganda tasks and also, if necessary, being ready to take up arms in defense of the so-called Bolivarian Revolution.[34] Specifically, according to Decree No. 3 (contained in *Official Gazette* 36.634) of February 2, 1999, after his having only been in office for a few hours (and when he had already announced that he would ask Congress to approve an enabling law), Chávez dictated the decision to summon the people for a consultative referendum on forming a national constituent assembly, without going through the necessary procedures for reforming the Constitution of 1961.

As García Soto highlights, the drafting of the decree was contrary to the provisions of the Constitution of 1961, the Organic Law of Suffrage and Political Participation, and the same rulings issued by the Supreme Court of Justice (CSJ), because it: a) converted the referendum into a sort of decisive plebiscite; b) subverted the Constitution of 1961 through a mechanism not outlined therein; c) delegated to the newly-elected president the regulation of the manner of election of the members of such National Constituent Assembly (ANC); and d) allowed for such an elected assembly to assume control of the state, instead of the duly constituted public authorities.[35]

In spite of several injunctions petitioned for by numerous lawyers in the country, the Supreme Court rejected them and the consultative referendum was held. Faced with this event, the diminished legislative and judicial branches of government reacted weakly, citing how this actor was acting within the democratic framework (at least in terms of respecting the will of the majority and the spirit of popular sovereignty), and thinking that their accommodating stance could appease the president in his pursuit of this political project. On April 25, 1999, the call for the creation of a constituent assembly was approved, and on December 16, the new constitution was approved, both by consultative referendum.

An example of the use of the principle of majority rule over that of constitutional liberalism is the struggle that took place in the interim of this process between the constituent assembly and the constituted public authorities. As pointed out by Combellas, the constituent assembly decided to occupy the facilities of the Congress and to directly exercise a tutelage role over the constituted parliament through the creation of a legislative commission. In regard to the judiciary, the strategy was to assume a subordinate coexistence with the constituent assembly in the hopes of not being removed, through the creation of an emergency judicial commission. This dynamic divided the Court. While some justices abstained and the chief justice chose to resign, most of the justices opted to open the door to the constituent process

34 Antonio García Ponce, *Adiós a las izquierdas* (Caracas: Alfadil Ediciones, 2003), 110–111.

35 Carlos García Soto, "*¿Cómo fue el proceso constituyente de 1999?*" in Prodavinci (Caracas: May 20, 2017), http://historico.prodavinci.com/blogs/como-fue-el-proceso-constituyente-de-1999-por-carlos-garcia-soto/.

and adhere to the principle of the "supra-constitutionality of the ANC [Constituent Assembly]."[36]

Whether it was due to weakness, inability, moral extortion, or the belief that, by relinquishing the Court's authority, this adversary would cease his unlimited demands at some point, the ongoing appeasement of Chávez that characterized the period between February and December 1999 had been unsuccessful. The duly constituted public institutions had made important concessions (without getting anything comparable in return) to the executive branch through the constituent assembly, being very permissive in the presence of an adversary that was getting stronger and progressively more ambitious.[37] While, on the one hand, the new Constitution of 1999 concentrated many more of the legal powers in the executive, unified the Armed Forces into a single body, permitted immediate consecutive re-election for all democratically-elected offices for a single additional term, and eliminated bicameralism; on the other hand, it did not eliminate the term "representative democracy" and it incorporated the concept of "participatory democracy" (emphasizing the need for open representativeness beyond the structures of parties and interest groups). In addition, it incorporated a full section dedicated to human rights and maintained the fundamental values of the rule of law. However, Chávez soon began to distance himself from the Constitution, moving first towards an illiberal and majoritarian democracy and, years later, towards an authoritarian regime.

According to Martínez Meucci, the tendency of the Venezuelan government was to promote a model based on direct democracy that sought to replace representative mechanisms in the hopes of reviving a kind of ancient democracy.[38] Additionally, Chávez displayed populist characteristics in the sense outlined by Spiritto: a) a notion of politics as the confrontation between the people and the elite or oligarchy; b) extreme nationalism; c) appeals to the threats posed by an external enemy; d) the deliberate confusion of the roles of the state, the party, the leader, and other intermediate bodies; e) the permanent mobilization of the masses; f) in the economic sphere, the creation of networks to distribute patronage in exchange for political obedience; g) a charismatic form leadership based on a direct relationship between the leader and the people; and h) the reduction or elimination of intermediate bodies or instances.[39]

According to Chaguaceda, "illiberalism is a way of understanding the social and political order in a society and populism may be the specific way in which this way of understanding the order in a society and a policy is implemented in practical politics, in speeches, in demonstrations—that is, in congregations."[40] Both illiberalism and

36 Ricardo Combellas, "El proceso constituyente y la Constitución de 1999," *Politeia*, no. 30 (January–June, 2003), 183–208, https://www.redalyc.org/pdf/1700/170033588013.pdf.

37 Francisco Alfaro Pareja, "Apaciguamiento en Venezuela (1994–1999): Una aproximación a la luz de las amenazas a la democracia liberal," *Poliarkía: Revista de Ciencia Política y Gobierno*, no. 2, (2019–2020), 73–106, https://revistasenlinea.saber.ucab.edu.ve/index.php/poliarkia/article/view/5550.

38 Miguel Ángel Martínez Meucci, *Apaciguamiento: El Referéndum Revocatorio y la consolidación de la Revolución Bolivariana* (Caracas: Editorial Alfa, 2012), 327–333.

39 Fernando Spiritto, "Hugo Chávez y el populismo del siglo XXI," in *Desarmando el modelo: La transformación del sistema político venezolano desde 1999*, ed. Diego Bautista Urbaneja (Caracas: Instituto de Estudios Parlamentarios Fermín Toro, Abediciones, Konrad Adenauer Stiftung, 2017), 117–150.

40 Armando Chaguaceda, "Hay que articular una defensa global y transideológica de la democracia," in *La amenaza del iliberalismo: Reflexiones y desafíos para la defensa de la democracia desde cuatro perspectivas*, ed., Francisco Alfaro Pareja (Buenos Aires: Stanley Center / Coordinadora Regional de Investigaciones Económicas y Sociales / Global Partnership for the Prevention of Armed Conflict [GPPAC], 2021): 29, http://www.cries.org/wp-content/uploads/2022/04/Armando-Chaguaceda.pdf.

populism reduce social diversity and, at the same time, deny pluralism because, beyond being an abstract aspiration, pluralism is precisely the idea that social entities can have a voice of their own, and must be expressed through institutional channels such as parties, congress, and civil society organizations.[41]

These populist characteristics can be seen in his speech made on February 4, 2000, during the campaign for the mega-elections.[42] On that occasion, Chávez, dressed in military uniform, openly talked about a "movement" rather than a "party." He appointed himself as the leader of the people and the political movement, though not as a member of any party (even though he established at least three political parties between 1994 and 2008). He exulted in the heroic action of the people and recognized the work of the former members of the National Constituent Assembly as the "gravediggers" of the old institutions and "midwives" of the new ones. He questioned old laws (insinuating that they adversely affected the interests of the poor) and supported the creation of a new legal framework for the benefit of the working class. He rejected the distinction between civilian and military spheres made by opposition parties. He discredited the former Congress and demanded his supporters stage a very big demonstration to "elect real revolutionary representatives" to the new National Assembly, saying:

> We have to change all the laws of false democracy that existed here … we have to throw away so many laws that do not work and elaborate new revolutionary laws … like an efficient army, we need to keep advancing into the territory until we get to the heart of the enemy.[43]

At the international level, even though Chávez signed the Inter-American Democratic Charter (IDC) on behalf of Venezuela in September 2001, he did so with reservations. Although the Charter is binding on all Organization of American States (OAS) member states, and stipulates that "the effective exercise of representative democracy is the basis of the rule of law and the constitutional regimes of the member states,"[44] the Permanent Mission of Venezuela to the OAS presented a proposal urging the inclusion of the concept of participatory democracy because reliance upon the first concept alone (that of representative democracy) ran the risk of becoming a prohibition on delegative democracy, whereby citizens relinquish direct political control over their leaders.[45] In fact, if it is compared the first Economic and Social Development Plan from 2001 to 2007 (during the first Chávez term), with the second one being from 2007 to 2013, there was a clear mutation within the conceptualization surrounding representative democracy. While in the first such plan it was stated that "the principle of participation … means, besides expanding and complementing representative democracy … a greater control by society over the matters that directly

41 Armando Chaguaceda, "Hay que articular una defensa global" 29-30.

42 This election is known as the "mega election" because people voted, the same day, for the election of president, national assembly, governors, mayors, and regional and local assemblies.

43 "Legado de Chávez: Discurso 04 de febrero de 2000," YouTube video posted by Mario González Ortega, February 4, 2000 (8:52–9:01, 17:43–17:51, 18:49–19:02), original in Spanish, translation by the author, https://www.youtube.com/watch?v=_lMjSmJ527I.

44 Organization of American States, Inter-American Democratic Charter, Part I, Art. 2 (Washington, DC: Organization of American States, September 11, 2001), http://www.oas.org/OASpage/eng/Documents/Democractic_Charter.htm.

45 Permanent Mission of Venezuela to the Organization of American States (OAS), *Venezuela: Comentarios y propuestas de los Estados miembros al proyecto de Carta Democrática Interamericana*, GT/CDI-2/01 add. 9, Working Group to Study the Draft Inter-American Democratic Charter (Washington, DC: OAS Permanent Council, August 13, 2001), Spanish version, https://www.oas.org/charter/docs_es/venezuela_es.htm. (English version: https://www.oas.org/charter/docs/reporte.htm.)

affect them,"[46] in the second one, it was emphasized that, "Since sovereignty resides in the people, they can run the state by themselves, without the need to delegate their sovereignty … and not as in representative democracy in which, under the guise of individual freedom … the interest of minority groups, opposed to the general interest of society, is legitimized."[47]

By the end of 2001, Chávez took advantage of the weakness and lack of independence of the judiciary, to advance with forty-nine (49) decree laws, the centralization and cooptation of public authorities, and the opening of several investigations into officers of the Armed Forces. In a few years, democratic institutions based on liberalism had been weakened, co-opted, or neutralized through illiberal democracy.

Illiberal Democracy and Backlash: The Period of Confrontation (2002–2004)

This dynamic led the country into a period of chronic and inextricable political conflict that extends to the present day, generating the conformation of two great political coalitions or archipelagos: one framed in the promotion of illiberal and revolutionary values, initially headed by Chávez, and the other headed by diverse political and civic actors, in the defense of the liberal-democratic system.[48] The erosion and progressive institutional collapse, the use of polarization as a way of doing politics, and the increase in the illiberal character of the regime, all amplified the levels of violence. On December 9, 2001, faced with his rejection by the Federación Venezolana de Cámaras de Comercio y Producción (FEDECAMARAS: the main Venezuelan Chamber of Commerce) because of some decree laws he had promoted, Chávez said:

> If FEDECAMARAS, that oligarchic leadership that made a historic alliance with the Puntofijo Pact, to ignore workers' rights; that made a pact with corruption, is calling for a national strike against the Revolution, it means that we are on the right track … There are two positions here: those who are with democracy, the constitution, Venezuela and progress … and those who are not. They are the same ones they tried to prevent: Chávez being president, the constituent referendum and the approval of the 1999 Constitution. They don't learn.[49]

Then there were two critical moments. The first one came in the form of the attempted coup d'état of April 11, 2002, along with the countercoup two days later; and the second such moment coming during the strike by employees of the state oil company, Petróleos de Venezuela, SA (PDVSA), which took place between November 2002 and

46 Hugo Chávez Frías, *Líneas Generales del Plan de Desarrollo Económico y Social de la Nación 2001–2007* (Caracas: Ministerio del Poder Popular para la Comunicación y la Información, 2001), 19, original in Spanish, translation by the author, http://www.mppp.gob.ve/wp-content/uploads/2018/05/Plan-de-la-Naci%C3%B3n-2001-2007.pdf.

47 Hugo Chávez Frías, *Líneas Generales del Plan de Desarrollo Económico y Social de la Nación 2007–2013* (Caracas: Ministerio del Poder Popular para la Comunicación y la Información, 2007), 30–31, https://faolex.fao.org/docs/pdf/ven187253.pdf.

48 Francisco Alfaro Pareja, "Archipiélagos políticos bajo la tormenta en Venezuela: Coaliciones, actores y autocratización," in *European Review of Latin American and Caribbean Studies*, no. 109 (Amsterdam: Centre for Latin American Research and Documentation, Universiteit van Amsterdam, 2020): 21–40, https://www.erlacs.org/articles/abstract/10.32992/erlacs.10568/.

49 "Aló Presidente, N° 88 con Hugo Chávez y Luisa Estella Morales," YouTube video posted by Luigino Bracci Roa, December 9, 2001, original in Spanish, translated by the author, (32:01–32:20, 48:16–49:01), https://www.youtube.com/watch?v=8YyrJaLLIRU.

February 2003. As retaliation, by April 2003 Chávez had fired nearly 18,000 PDVSA workers (47% of the total workforce), violating their labor rights and arguing that the strike had been politically motivated and not for labor reasons. López Maya points out, regarding the dynamics of this phenomenon, that polarization found its political expression with the emergence of Chávez, who emphasized the existence of two irreconcilable groups in the society: the people and the oligarchies, which besides representing different interests, promote mutually-exclusive political and ideological projects.[50] In fact, as Brandler notes, the polarization strategy was used as a divisive rhetorical tool to mobilize bases of popular support around the Chavista project but ended up, for example, fracturing the women's rights movement and forcing them to submit to his ideological project if they wanted to participate in his government or assume other public positions.[51]

Due to the deliberate destruction of institutional mechanisms for political dialog and conflict management, such as negotiation in congress and between parties; independent judicial authorities; and free, transparent, and fair elections; the need was created to install alternative mechanisms for dialog and negotiation between coalitions, with the participation of the international community as impartial third-party observers.[52] In the mehcanism, established between 2002 and 2004 and called the Mesa de Negociación y Acuerdos (Table for Negotiation and Agreements), there was a strategy in favor of a negotiated and electoral solution, directed by a Three-Party Working Group comprised of the OAS, the Carter Center, and the United Nations Development Program (UNDP).[53] Among the main achievements of the agreement, signed on May 29, 2003, it is worth mentioning that both sides accepted the legitimacy of the constitutional mechanism of the Presidential Recall Referendum to implement the "constitutional, democratic, peaceful, and electoral" solution demanded by OAS Resolution 833.[54]

One of the illiberal practices used by Chávez to achieve popular support during the campaign for the Presidential Recall Referendum (and even in previous ones) was to appeal to nostalgia for "the common project" that, according to him, was betrayed in the past, after the independence era of conflict (1810–1846) and during the Federal War (1859–1863). On nostalgia, Applebaum emphasizes that illiberal projects use it as a very common way of undermining the present system, building a feeling around the idea that: a) the past was better than the present; b) that the present political system is bad; and c) that the present system must be dismantled and changed in order to return things to the way they were or restore something.[55] From the beginning, Chávez defined his movement as the heir of others that had been frustrated in the past and that would be brought to fruition by his Bolivarian

50 Margarita López Maya, "Apuntes sobre la polarización política en Venezuela y los países andinos," *Revista Ecuador Debate*, no. 80. (Quito: Centro Andino de Acción Popular, FLACSO Andes, August 2010): 95–104, https://repositorio.flacsoandes.edu.ec/handle/10469/3481.

51 Natalia Brandler, *La participación de las mujeres en posiciones de poder político en Venezuela: Un recorrido histórico* (Caracas: Instituto Holandés para la Democracia Multipartidaria, 2021), 16, https://nimd.org/theme-brochures/the-participation-of-women-in-politics-in-venezuela/.

52 Francisco Alfaro Pareja, "Mecanismos alternativos de diálogo y negociación en el conflicto político de Venezuela (2002–2018)," in *Pensamiento Propio*, year 23, no. 47, eds. Thomas Legler, Andrei Serbin Pont, Ornella Garelli Ríos (January–June 2018, Buenos Aires: Coordinadora Regional de Investigaciones Económicas y Sociales): 37–68, http://www.cries.org/wp-content/uploads/2018/09/007-Alfaro.pdf.

53 Between 2002 and 2022, at least six (6) alternative mechanisms have been developed in Venezuela with the participation of the international community as third-party observers.

54 Declaración "Respaldo a la Institucionalidad Democrática en Venezuela y a la Gestión de Facilitación del Secretario General de la OEA." See year 2003, Document CP/RES. 833 corr. 1, https://www.oas.org/en/council/CP/documentation/res_decs/.

55 Applebaum, "Frente a la amenaza," 16–17.

Revolution. In his *Blue Book*, which serves as a collection of some of his thoughts and quotes, he put it this way:

> What is the reason why we are here and now announcing and promoting profound changes at the beginning of the last decade of this lost century? ... a single and powerful reason: it is the project of Simón Rodríguez, The Teacher; Simón Bolívar, The Leader; and Ezequiel Zamora, The General of the Sovereign People; a truly valid and pertinent reference with the socio-historical character of the Venezuelan being. ... This project has been reborn from the rubble and rises now, at the end of the 20th century, supported by a theoretical-political model that condenses the determining conceptual elements of the thinking of those three illustrious Venezuelans.[56]

But the president went further and, starting from one of his family ancestors, he weaved a line between himself and this project that would end up being part of the Official History once he secured his hold on power. As Straka points out, Chávez knew the history of his great-great-grandfather, Pedro Pérez, who served in the federal army in 19th century, one of whose *caudillos* (strongman leaders) was Ezequiel Zamora, who was reputed to have been the leader of the working-class wing of the Federal Army, an avenger of the unresolved social conflicts of the independence period. According to Chávez, the project of the social revolution of the Federation died with the murder of Zamora and was betrayed by those of his own side who capitalized on their victory in the war. However, some dissidents (among them Chávez's great-grandfather, Pedro Pérez Delgado, who also went by the name of Maisanta) followed the original nation-building project decades later and vindicated it.

In this sense, Chávez's family history was intertwined with this unfinished project. Additionally, Chávez's imagination, he assumed that the signers of the Treaty of Coche in 1863, and those of the Puntofijo Pact in 1958, were heirs to this treason, the representatives of that historical oligarchy that always "postponed the interests and vindications of the people" that he and his project now represented.[57] In fact, the electoral campaign staff members in support of Chávez during the recall referendum were called, on June 9, 2004, the "Maisanta Commando," and bellicose rhetoric was used to frame the electoral event as a defining military battle between "two irreconcilable enemies," as had happened in the 1859 Battle of Santa Inés, during de Federal War.

Another practice of Chávez's was to implement emergency economic measures. Spiritto calls this "macroeconomic populism," and it was a crucial tool that allowed the president to increase his popular support before the referendum. The upward trend of oil prices was accompanied by the establishment of a parallel economy based on an immense distributive and clientelist system of patronage, whose objective was to expand the political base of support for the president[58]—in particular, the

56 Hugo Chávez Frías, *El libro azul* (Caracas: Correo del Orinoco, 2013), 20–21, original in Spanish, translation by the author, http://www.consulvenevigo.es/subido/LIBRO%20AZUL%20DESCARGA.pdf.

57 Tomás Straka, "Imperfecta y denostada: La paz del Tratado de Coche (1863)," in *Venezuela en clave de paz: Breve historia de la convivencia nacional (1820–2020)*, eds. Francisco Alfaro Pareja y Manuel Zapata, SJ (Caracas: Fundación Centro Gumilla y Academia Nacional de la Historia, 2020), 65–92.

58 Spiritto, "Hugo Chávez y el populismo del siglo XXI," 140–141.

establishment of the so-called "missions"[59] allowed Chávez to develop an instrument of mobilization and political control to increase his support at a time when polls did not give him the advantage.

Although Chávez won the recall referendum, which was held in August 2004 (despite of clear signs of misuse of public resources such as unequal access to television and radio airtime and advertising, and despite boycott and noncompliance with government regulations), his emphasis on the result over the procedural conditions; power-sharing; or allowing the opposition any room for coexistence based on the independence of public authorities, the rule of law, or respect for the rights of political minorities, augured a position of weakness for the defeated.[60] At the time, Francisco Diez, the Carter Center's facilitator in the Three-Party Group's alternative mechanism of dialogue and negotiation, had warned in a private letter to former US President Jimmy Carter that, because both sides viewed each other as an existential threat, "the electoral solution is not a democratic solution at all."[61] In the end, he was proven right.

According to Martínez Meucci, this is summed up in the fact that the underlying problem, the confrontation between two types of democracy (liberal and illiberal), was not addressed. This effort of facilitation, and the electoral observation process carried out by the OAS and the Carter Center, while de-escalating the violence, did not resolve the conflict. In the end, these measures ended up being ineffective and insufficient and led to a failed attempt at appeasement.[62] A few months later, the conflict would enter a new phase of polarization and escalation of violence.

The Peak of Illiberal Democracy and Transition to Authoritarianism, 2004–2007

Beginning in 2004, the rise of illiberal democracy in Venezuela entered its peak phase, following new steps taken by the national government. A few days after his victory, Chávez declared that Venezuela had arrived at a new stage in the revolutionary process. Rhetorically, the Bolivarian ideological precepts were replaced with a now openly-declared radical socialist character of the regime, although it still officially maintained its recognition of the will of the people in the form of elections under the principle of majoritarian democracy. In a statement made in August 2004, after his victory in the referendum, he openly denied the existence of the opposition coalition called the Coordinadora Democrática (Democratic Coordinator). To this end, he claimed that:

> It is necessary to wipe the Coordinadora Democrática off the

59 The "missions" were social policy measures of the Chávez government to offer basic services to a large contingent of those in the population with the least resources, where the universalization of social rights is limited by the financial capacity and institutional restrictions of the state. Although they are characterized as lying outside of conventional public institutions, with the purpose of achieving greater administrative agility, they also suffer from a greater lack of coordination, from duplication of costs, and from gaps in monitoring and evaluation that have hindered their managerial effectiveness. They also depend, to a large extent, on the discretion of the president. See Maingon, as cited in Alberto José Hurtado Briceño and Sadcidi Zerpa de Hurtado, "Misiones Sociales en Venezuela: Concepto y Contextualización," Artículos de Investigación, Reflexión y Artículo de Revisión, *Sapienza Organizacional* vol. 3, no. 6 (Caracas: Universidad de los Andes, 2016): 37–64, https://www.redalyc.org/journal/5530/553056828003/html/.

60 Miguel Ángel Martínez Meucci and Francisco Alfaro Pareja, "Asimetría del conflicto y mecanismos alternos de diálogo y negociación en Venezuela (2002–2019)". En *América Latina Hoy*. Vol. 85. (Salamanca: Universidad de Salamanca, 2020), 18. https://dialnet.unirioja.es/servlet/articulo?codigo=7550145.

61 Francisco Diez and Jennifer McCoy, *Mediación internacional en Venezuela* (Barcelona: Editorial Gedisa, 2012), 182.

62 Martínez Meucci, *Apaciguamiento*, 418.

> map of the continent … I do not recognize this Coordinadora as the political opposition. I do not recognize it anymore! And there is no dialog with this Coordinadora; we cannot dialog with those who do not recognize the Constitution and the people.[63]

This radicalization was also reflected, for example, in the publication of the database of all voters who had signed the recall petition against Chávez in 2004. This database became known as the Tascón List[64] because the congressman of the then ruling party, Luis Tascón, was the one who published it at the request of Chávez and with the apparent tacit consent of the National Electoral Council. The excuse given for this was that it would allow for the public reviewing of these signatures, as many of them were presumably considered fraudulent. But the truth was that the Tascón List served to promote for many years, on the one hand, the persecution, discrimination, and differential treatment before the law of those in the minority and, on the other hand, the erosion of trust in institutions due to the publication of this confidential information in violation of the right to a secret ballot.[65]

Additionally, this radicalization advanced with legal and judicial procedures to limit the freedom of the press and of the media. In this regard, since 2004, the number of television, radio, and press media outlets under the control of the national government increased within the framework of what is known as its strategy to develop a "Communications Hegemony," in order to, on the one hand, enhance the state's communications levers of control and, on the other, eliminate or diminish as much as possible the role of independent media. In this sense, in December 2004, the pro-Chávez majority in congress approved two legal instruments that facilitated the placing of restrictions on communications and journalistic work.[66] Perhaps one of the most impactful measures came at the end of 2006, when Chávez publicly announced the government's denial of the request by Radio Caracas Televisión (RCTV), the biggest and most popular private television channel in Venezuela, for renewal of its license to freely use its range of the available airwaves spectrum. Chávez accused it of having played a part in the attempted coup d'état of April 11, 2002:

> There is a gentleman, one of those representatives of the oligarchy … that the former governments of the AD and COPEI parties gave him license to have a television channel. Now he goes around saying that this license is eternal. But it expires in March [2007] … There won't be a new license for that coup's television channel called RCTV … No media that is at the service of the coup, against the people, against the nation, against

63 "Chávez desconoció a la Coordinadora Democrática como su opositora," *El Universo* (Guayaquil, Ecuador), August 22, 2004, original in Spanish, translation by the author, https://www.eluniverso.com/2004/08/22/0001/14/99B1245FF9E84E188537DEC8A339A74C.html.

64 L. B., "Página web de Luis Tascón permite chequear si firmaste el referendo consultivo," Aporrea (website), January 27, 2003, https://www.aporrea.org/actualidad/n4550.html.

65 Fourteen years afterward, in 2018, the Inter-American Court of Human Rights ruled that the publication of the Tascón List constituted a case of political persecution and human rights violation. However, the ruling has not yet been adhered to nor complied with by the Venezuelan Government. See José Ignacio Hernández, "La Lista Tascón y la persecución política: A propósito de la sentencia de la Corte Interamericana," Prodavinci (website), June 6, 2018, https://prodavinci.com/la-lista-tascon-y-la-persecucion-politica-a-proposito-de-la-sentencia-de-la-corte-interamericana/.

66 Andrés Cañizales, "Hegemonía y control sobre la comunicación masiva: El modelo chavista," in *Desarmando el modelo. La transformación del sistema político venezolano desde 1999*, ed. Diego Bautista Urbaneja (Caracas: Instituto de Estudios Parlamentarios Fermín Toro, Abediciones, Konrad Adenauer Stiftung, 2017), 423–446.

> national independence, against the dignity of the republic, will be tolerated here. Venezuela respects itself.[67]

At the international level, Chávez developed a foreign policy that distanced the country, on the one hand, from the Inter-American system, as well as from the United States and, on the other hand, brought the country closer to undemocratic, illiberal, and authoritarian regimes such as those of Cuba, Russia, China, Syria, India, and Iran, to mention only a few. For instance, in the Economic and Social Development Plan (2001–2007), during Chávez's first term, although there was talk of maintaining an active presence in multilateral forums (such as the United Nations Council on Human Rights and the OAS, and ratifying the Statute of the International Criminal Court), he also advocated for what he called a more balanced world, in which he sought to reverse the traditional concentration of power in international organizations and to promote structural changes to strengthen the position of developing countries. Likewise, although there was talk of maintaining relations with countries such as the US and in Europe, he also proposed consolidating a "multipolar pluralism" with countries such as China, Russia, Cuba, and India, and strengthening Latin American regional integration.

In the second Plan, put forward by Chávez in 2006 in preparation for his second term, his foreign policy was more radical. He talked of promoting a "new international geopolitics,"[68] based on national sovereignty, in order to break the hegemony of the United States of America's imperialism. In addition, he promoted the idea of new multilateral organizations (such as the Bolivarian Alliance of America),[69] whose center revolved not around values such as those promoted by liberal democracy and human rights, but rather around an anti-imperialist vision and a posture of nonintervention in developing countries' domestic affairs.[70]

Regarding this, Cardozo emphasizes that the idea of national sovereignty in government referred to the principles of self-determination and nonintervention was aimed at countering, on the one hand, institutional guarantees, and procedures for the direct and indirect exercise of popular sovereignty and, on the other hand, the international protection of democracy, international electoral observation, and the supranational human rights protection system. The oil boom that had begun around that time allowed Chávez to exert an important influence over some countries, especially over the Caribbean Island nations, to guarantee support for his position in multilateral organizations.[71]

Another trend that increased beginning in 2004 was the blurring of the line between the civilian and military spheres. While in a liberal democracy the political party is the representative instrument par excellence, being differentiated from the work and nature of the armed forces, in the ideology of the Bolivarian Revolution this

67 "Presidente Hugo Chávez decide no renovar la concesión a RCTV," YouTube video posted by Luigino Bracci Roa, December 28, 2006, original in Spanish, translation by the author, https://www.youtube.com/watch?v=bR-ZYzC3Xxs&t=98s (0:06–01:13).

68 Chávez, *Líneas Generales del Plan de Desarrollo Económico y Social de la Nación 2007–2013*, 46. http://www.mppp.gob.ve/wp-content/uploads/2018/05/Plan-de-la-Naci%C3%B3n-2007-2013.pdf .

69 The group's acronym, ALBA, spells out the Spanish word for *dawn*.

70 Chávez, *Líneas Generales del Plan de Desarrollo Económico y Social de la Nación 2001–2007* and *2007–2013*.

71 Elsa Cardozo, "Entornos, ideas, estrategias e institucionalidad: El papel de las relaciones internacionales en la reconfiguración del sistema político venezolano," *Desarmando el modelo. La transformación del sistema político venezolano desde 1999*, ed. Diego Bautista Urbaneja (Caracas: Instituto de Estudios Parlamentarios Fermín Toro, Abediciones, Konrad Adenauer Stiftung, 2017): 291–330.

concept was quite different. Since 2001, Chávez had created the so-called Círculos Bolivarianos (Bolivarian Circles), sociopolitical organizations promoted with the purpose of fostering and sustaining the "revolutionary process" under his leadership and based on the myth of the unity of the armed people. Armed members of these Circles confronted antigovernment protesters on April 11, 2002. On this point, López Maya highlights how Chávez began to talk about "people power" instead of "popular sovereignty."[72]

The main difference is that popular sovereignty as contemplated in the words of the constitution implies that representation is a form of direct participation, that this meets the requirements of individual civil and political rights, and that it meets the definition of a modern democracy by vesting power in the people as the government's constituents. On the contrary, people power is not a part of the 1999 Constitution—it is presented as a balance of constituents' power versus the constituted government's power. Power derives from collective assembly spaces, not from the branches of government —that is, its political subject is collective, not individual.[73]

It is in this sense that, since 2004, the structure of the National Armed Forces distanced itself even more from the principles of the Puntofijo Pact regarding the separation of the civilian and military spheres and, as described by Sucre, the partisanship of the military became radicalized as a means of guaranteeing its commitment to the revolutionary process, neutralizing possible new rebellions, and integrating it with society through a paradigm of civil-military union.[74] In a speech given to the Armed Forces at the Military Academy of Venezuela, on December 6, 2006, Chávez called upon the military to advance towards a socialist project, increasing the civil-military union, and he questioned those who still defended the traditional institutional vision of the military:

> They shielded themselves behind a false institutionalism to evade responsibilities and to attack the republic and betray their supreme responsibilities … Let's understand it once and for all: to be an institutional soldier today is to be revolutionary, because the revolution today has been institutionalized.[75]

Chávez, who progressively radicalized his project, said in August 2007, in a statement delivered before the National Assembly, that the reforms he proposed to be made to the 1999 Constitution were put forward because "the people have asked us to move forward, to break down barriers, obstacles that stop us … to deepen Bolivarian popular democracy … to build a socialist productive economic model."[76] As Jiménez points out, far from being "a tailor-made suit" (as some of Chávez's critics said at the beginning), the Constitution had become a "straitjacket" for the president.[77] In order

72 Margarita López Maya, "Socialismo y comunas en Venezuela," *Nueva Sociedad*, no. 274 (March–April 2018), 60 https://www.nuso.org/articulo/socialismo-y-comunas-en-venezuela/.

73 López Maya, "Socialismo y comunas en Venezuela," 60–62.

74 Ricardo Sucre, "El papel de la estructura militar en la configuración del nuevo sistema político," *Desarmando el modelo: La transformación del sistema político venezolano desde 1999*, ed. Diego Bautista Urbaneja (Caracas: Instituto de Estudios Parlamentarios Fermín Toro, Abediciones, Konrad Adenauer Stiftung, 2017): 331–382.

75 "Salutación de fin de año de Hugo Chávez a la Fuerza Armada Nacional Bolivariana," YouTube video posted by Luigino Bracci Roa, December 28, 2006, original in Spanish, translation by the author, https://www.youtube.com/watch?v=0IYnqbRI1vU&t=2116s, (34:27–35:20).

76 "Presentación Reforma Constitucional a la AN," YouTube video posted by Zippo1965, August 15, 2007, original in Spanish, translation by the author, https://www.youtube.com/watch?v=y2O3yxUfnxs, (2:10–2:42).

77 Jiménez, *El Chavismo*, 204.

to reform it, and based on the great popular support received in 2006 for his second re-election, Chávez promoted a consultative referendum in 2007.

Nevertheless, a breaking point was reached: the coalition led by him suffered an important fracturing, which contributed to its defeat in the referendum. In spite of the fact that the reform proposal included some changes that could be debatably considered as potential improvements in social rights, the vast majority of the proposal would have overtly increased the illiberal character of democracy and even threatened to seriously propel the nation towards a transition to becoming an authoritarian political regime. The former minister of defense, General Raúl Isaías Baduel, who retired in July 2007, openly opposed this referendum because for procedural reasons, and because the new Constitution:

> Instead of moving towards a progressive interpretation of the constitutional text, it is moving towards a regressive interpretation, limiting fundamental rights … People of Venezuela, defend your rights and don't let them [the executive and legislative branches] fraudulently take power away from you.[78]

Reviewing the proposal, Brewer-Carías points out that, at the political level, it proposed to: replace the social-democratic state's forms of law and justice with those of a socialist state; replace representative and participatory democracy with participative in radical populist forms of direct democracy; allow for the indefinite re-election of public officials in a presidentialist system and increase the length of the terms in office; increase the powers of the president, to the detriment of the other two branches of government; generate a direct relationship between the executive branch and the people (through figures such as the communal councils, the workers' councils, and the peasants' councils), to the detriment of intermediary bodies such as political parties; weaken the structure of decentralization and regional and municipal public power; change the Armed Forces from an essentially nonpartisan professional institution at the service of the nation, into a patriotic, anti-imperialist one acting on behalf of the people, including a new component formed by the Bolivarian National Militia.

At the economic level, the proposal was to: reduce the weight of private property and create new types of social and collective property of an ambiguous nature; prohibit monopolies in the private sector; reserve to the state all natural resources, the right of exploration and exploitation of hydrocarbons, and the provision of essential public services; incorporate the Social Missions into the formal structure of public administration; increase the powers of the state to ensure food sovereignty; grant the power to manage the country's international reserves to the president in coordination with the Central Bank of Venezuela, which lost its autonomy and came under the control of the executive.[79]

Being a sore loser, Chávez refused to recognize the political and juridical consequences of the referendum's results and initiated the transition towards a form of electoral

78 "Reacción de Raúl Isaías Baduel contra la reforma constitucional de 2007," YouTube video posted by Globovision, November 5, 2007, original in Spanish, translation by the author, https://www.youtube.com/watch?v=6HbOjfCKrKE (2:13–2:32, 5:21–5:29).

79 Allan Brewer-Carías, "La reforma constitucional en Venezuela de 2007 y su rechazo por el poder constituyente originario," author's personal website (New York, December 27, 2007): 1–39, https://allanbrewercarias.com/wp-content/uploads/2008/08/569.-.-568-La-rechazada-reforma-constituitonal-de-2007-por-el-poder-constituyente-originario.pdf.

authoritarianism. Right during the press conference after the announcement of the results by the electoral body, dressed in military uniform and accompanied by the Military High Command, President Chávez remarked that "a new offensive will come ... So I would not declare victory, gentlemen of the Opposition. ... Know how to manage your victory ... it is a shitty victory."[80] The OAS recognized a democratic advance in the result of the referendum, and its acceptance by President Chávez (ignoring, that is, his morally disqualifying it), because it reflected the will of the authorities to consult the public on major national issues. However, the hemispheric organization had not understood that the health of a democracy depends not only on the recognition of a legitimate electoral outcome, but also on the ways in which power is exercised and the legal framework is applied.

Gradually, beginning in 2008, Chávez forcefully introduced the precepts and changes that had been rejected in the referendum by the majority vote of the population, taking advantage of the fact that his party had a supermajority in the congress,[81] and that he even had direct influence over the judiciary: the ideas of commune, of people's power, of civil-military union, of indefinite re-election, and of 21st-century socialism, all moved the country closer to a revolutionary conception of politics. Thus, the basic principle of democracy as "respect for the will of the majority" as mediated through the ballot box had been violated for the first time since the ascent of Chávez to the presidency. It was no longer possible to talk about the mere threat of illiberal democracy. What Chaguaceda warns of had already happened: "illiberal democracy kills liberalism but ends up committing suicide by suppressing the popular will as the basis of government."[82] In this sense, the formerly hybrid regime had by now mutated into one of electoral authoritarianism that would extend until 2016 when, finally, it would transition to becoming a fully hegemonic form of authoritarianism under Chávez's successor, President Nicolás Maduro Moros.

Conclusions

Based on the definition of illiberal democracy examined above, it can be said that this type of regime became established in Venezuela between 1999 and 2007. Although there were authoritarian practices during the first eight years of the Chávez administration, the regime remained democratic, albeit illiberal, until 2007. This point is important to keep in mind because it allows us to identify how the illiberal threat operated and how the defenses, both local and hemispheric, failed to act in a timely and effective manner to prevent the death of one of Latin America's longest-lived liberal and representative democracies at the time. The main reason for this was because they were prepared only to face up to the classic threats to liberal democracy, not a threat such as illiberalism evolving through a hybrid regime.

At the local level, the loss of the liberal components of Venezuelan democracy at the end of 20th century was closely related to the loss of legitimacy and representativeness of intermediate bodies and responsiveness of authorities to the people as outlets for their main demands and needs. However, as shown above, this was not the only cause. The institutions and the parties reacted to illiberal threats from a position of

80 "Chávez insulta al país – victoria de mierda," YouTube video posted by Tony S, December 6, 2007, https://www.youtube.com/watch?v=3Hx_WejAEmQ&t=140s.

81 In the congressional elections of 2005, the opposition coalition decided not to participate, alleging legal trickery by the Supreme Court and citing distrust in the automated electoral system, in the national electoral authorities, and in the measures for guaranteeing the people's right to a secret ballot. This gave Chávez full control of the congress between 2006 and 2011.

82 Chaguaceda, "Hay que articular una defensa global," 27.

weakness. In this way, illiberalism was manifested in actions such as the abuses of the rights of minorities by the majority, the polarizing rhetoric of independence-era nostalgia, the direct relationship between the leader and the people, the subversion of intermediate instances, the judicial system intervening in the range of legal freedoms for participating in politics and parties, the undermining of the independence of public authorities, violations of the freedom of the press, the rhetoric of reclaiming sovereignty, the rejection of multilateral organizations, the promotion of economic protectionism, and the use of direct, structural and culturally-accepted violence.

At the international level, while institutional and legal defenses were prepared to be activated in the face of traditional threats, such as classic military coups, the slow and progressive erosion of liberal democracy through elections was a phenomenon to which they had not been able to adapt. Although the Inter-American Democratic Charter was signed by all OAS member states in 2001, the principles of this document were clearly subverted in Venezuela and the reaction to this was late and ineffective.

While it is true that an illiberal democracy can lead to authoritarianism, it is not an inevitable result, especially if there are checks and balances on the exercise of power. Although illiberalism is a current threat to democracies in Latin America, most of them have not devolved into authoritarianism. Venezuela still is one of the exceptional cases, where liberal defenses were progressively eroded and/or neutralized in various ways. These gradual changes simplified the transition towards electoral authoritarianism, which finally took place in 2007 when the will of the majority was expressed against Chávez through a consultative referendum but he no longer wished to submit to it. In this gradual transition, the populist component in Chávez's leadership was very important. While populism is an ingredient of some illiberal political regimes, not all illiberalism is populist, nor is all populism illiberal. But the Venezuelan case was both illiberal and populist.

Sixteen years later, the government led by Nicolás Maduro still does not acknowledge its own authoritarian and hegemonic character. Despite the rejection of his regime by the international democratic community, since 2016 he has continued to present a view of his agenda as that of the majority, as that of a participatory democracy, in open repudiation of the liberal representative-democratic model. Despite holding power, the quest for the stamp of legitimacy given by recognition as a democracy remains elusive but important.

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From Counter-Hegemonic Dialogue to Illiberal Understanding: Russian-Latin American Relations (2000–2023)

DIEGO C. SOLIZ T.

Abstract

Russia's return to Latin America since the 2000s now presents a mixed picture. Initially forged with a view to economic growth and trade diversification, the ties between Latin American countries and Russia have gradually become more political in nature, with public diplomacy in both emphasizing the rejection of liberalism and the West. Russia has thus been able to deploy a soft power strategy based on two pillars: its media of influence, which have been favorably received by "pink tide" governments, as well as the militant leftist networks in the Spanish-speaking world. In this article, I show that the counter-hegemonic dialogue between the various components of the Latin-American left and Russia can be described as "illiberal." First, it is entirely context-dependent and does not follow any political line underpinned by a common dogma. Second, it can be explained by an ideological framework largely inherited from the Soviet past that is present on the Latin American left and exploited by Russia today. Third, it operates through a collection of narratives that echo the main historical struggles of the Latin American left: anti-Americanism, anti-colonialism, and anti-liberalism.

Keywords: Russia; Latin America; illiberalism; counter hegemonic dialogue; "pink tide"

Diego C. Soliz T.
solizterrazas.diego@outlook.com

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At the turn of the century, a decade after the brutal cessation of relations that followed the collapse of the USSR, the Latin American countries and Russia commenced a new cycle of bilateral relations. The newly globalized world and economic growth of emerging countries buoyed this dynamic. Yet the strength of Russo-Latin American relations has mostly been due not to opportunities for growth, but to a sometimes-violent questioning of the Western-led world order. Many works on the evolution of Russo-Latin American relations emphasize, for instance, the authoritarian nature of their respective regimes as a way of explaining the ties between the Kremlin and Latin American capitals.[1]

However, the great diversity of contexts, approaches, and devices in and through which Russian bilateral and public diplomacy have been pursued in Latin America forces a qualification of the previous statement. If Russia has established privileged links with the countries of the Bolivarian axis, whose authoritarian turn is indisputable,[2] it has also been able to develop commercial, economic, and cultural links with such regional powers as Argentina, Mexico, and Brazil. Moreover, the recent presidential elections in Brazil, which occurred amid heightened political tensions and societal polarization, show that the relationship to Russia is not a line of divide: Russian diplomacy finds itself supported by candidates as diverse as the far-right Jair Bolsonaro and the left-winger Lula da Silva. Likewise, Argentine president Alberto Fernández's declaration that he would make Argentina "the gateway to Russia in Latin America"—a statement that came two weeks before Russia's invasion—hardly transformed Argentina's democracy into an autocratic regime.

In order to conduct a more precise and granular analysis of the dialogue established between Latin American countries and Russia since 2000, I use Marlene Laruelle's theoretical framework for defining illiberalism.[3] According to Laruelle, four major elements contribute to the idea, allowing it to occupy a new semantic niche that is better adapted to understanding the structural volatility of contemporary Russo-Latin American relations:

(1) Illiberalism must be understood as a thin global ideology, but one whose doctrinal and empirical character depends entirely on context.

(2) Illiberalism must be understood as being a relationship of tension with liberalism, situated in a specific context. It is interpreted as a rejection of liberalism by countries that have experienced it, from which experiences emerge elements of critique that constitute the background of alternative narratives to the liberal ideological matrix (meta-narratives).

(3) Illiberalism, contra liberal universalism, proposes a sovereigntist vision refocused on the value of the domestic and of identities, declined according to a palette of regimes of otherness (indigenous, regional, national in the sense of "nation" or of "people").

(4) As a global vector, illiberalism acts as a cohesive force for rejecting liberalism and has proliferated in different national and regional contexts around the world. The

1 Claudia Gonzalez Marrero and Armando Chaguaceda, "El poder de Rusia en Latinoamérica: Autocracia global, influencia regional," *DP enfoque* 7 (2022), https://dialogopolitico.org/wp-content/uploads/2022/02/El-poder-de-Rusia-en-Latinoamerica.pdf.

2 "Global Outlook: Democracy Index 2022," Economist Intelligence Unit, March 2, 2023, https://www.eiu.com/n/global-outlook-democracy-index-2022/.

3 Marlene Laruelle, "Illiberalism: A Conceptual Introduction," *East European Politics* 38, no. 2 (May): 303–327, https://doi.org/10.1080/21599165.2022.2037079.

circulation of narratives and images within hypermediated global societies promotes this confluence effect and produces a common political narrative. This narrative, which we call here a counter-hegemonic dialogue, projects an intention of solidarity between governments, media, opinion-makers, intellectuals, activists, etc., who for different reasons have severed ties with liberalism. This ensemble is united around a shared objective: to announce and promote the overcoming of liberalism as the ideological referent of the world order.

Russian-Latin American relations are rooted in the history of difficult relations between the southern and northern countries of the Western Hemisphere, especially during the Cold War. The intellectual construction of the Latin-American left during the Cold War and its rejection of American imperialism; the ideological background of the critique of liberal experiences in the 1990s; and the rise of the "pink tide" in the 2000s all contribute to explaining the relative effectiveness of the Kremlin's influence operations and deployment of soft power in Latin America. Three components help illuminate this phenomenon: the weakness of the interdependencies between Russians and Latin Americans, in terms of economic exchanges and lasting cultural and political partnerships; the establishment of a real counter-hegemonic dialogue between Russia and several Latin American countries outside of any alliance or ideological alignment; and the weight of the Kremlin's media influence on extreme-left opinion networks that embrace the political strains of the extreme right and are increasingly present in Latin American political culture.

Tensions between Liberalism and Illiberalism in Latin America

Latin America's shift to the left can be interpreted as an expression of "regional postliberalism." There are substantial differences between the policy programs and dogmatic lines of those leftist leaders who came to power in the early 2000s. All of them, however, began their leadership in the same way: by breaking—more or less clearly and definitively depending on the case—with the dominant economic discourses of the 1990s,[4] often characterized by opponents of the liberal model in Latin America as the "Washington consensus." While this rejection of the liberal model primarily entailed a critique of the socio-economic consequences of neoliberal structural adjustments, the liberal experience of Latin American countries embraced other areas of political life. I contend that three elements characterized this liberal moment: the transition to democracy that changed public institutions following the long tenures of military dictatorships; the imposition of structural adjustment measures that impacted public management and the functioning of markets; and the repositioning of Latin American countries in the global arena following the end of the Cold War.

The Liberal Context of Latin America in the 2000s

About a decade before the fall of the USSR, Latin America was beginning to chart its course toward "democracy" after years of military dictatorships and autocratic civilian regimes. The designers of these transition processes believed that the transition from authoritarianism to democracy depended, first and foremost, on the restoration of an institutional order that would allow for the organization of free elections.[5] On the basis of this cornerstone, a second phase of transition—building

4 Camille Goirand, "Le gauches en Amérique Latine, avant-propos," *Revue internationale de politique comparée* 12, no. 3 (2005): 267–282, https://doi.org/10.3917/ripc.123.0267.

5 Georges Couffignal, "Crise, transformation et restructuration des systèmes de partis," *Pouvoirs* 98, no. 3 (2001): 103-115, https://doi.org/10.3917/pouv.098.0103.

a system of representation by rehabilitating or creating political parties—was envisaged. The political parties that existed at that time only had a weak militant base and social anchorage, having been banned or prevented during the period of military dictatorships. When the transition processes begin, these parties become major actors thanks to a legitimacy rooted in the influence of their leaders, who had gained their position as dissidents or as members of an economic elite.

In many cases, such as in Uruguay, Chile and Argentina, the transition to democracy was ensured by pacts between democratic leaders and members of the outgoing military regimes[6]. These compromises took two forms: either a gradual liberalization that would allow the regime's authorities to retain the essential levers of power; or a complete opening-up that would lead to a full transition to a democratic state governed by the rule of law, yet without former elites being held accountable for the crimes and serious human rights abuses they had committed.[7] Even though the details of both transition plans varied depending on the country, the main consequence was the exclusion of large sectors of civil society from the choices that would define the terms of the future social contract.

This lack of a structural link between the new elites responsible for organizing emerging democracies and these democracies' citizens carried the seeds of the crisis of representation that hit several Latin American countries in the early 2000s. Despite the establishment of a formal electoral game whose rules were relatively respected, the glaring lack of political responses to the multiple social demands generated by liberalization eventually caused the collapse of legitimacy and trust in postdictatorial systems. On a political level, this crisis of both institutions and legitimacy favored the emergence of alternative discourses coming from the left, whose targeted enemy had a name: (neo)liberalism.

In these critiques, "liberalism" was primarily a specific set of public policies. Indeed, in the vast majority of cases, the liberalization of the political regime was accompanied by an equally important rethinking of the economy's guiding principles. The first elections thus brought to power a ruling elite whose primary mission was to establish political and social stability by carrying out structural reforms that ensured a dual—political and economic—transformation. This new political class sketched out government plans based on a framework inspired by the so-called "Washington consensus": the disengagement of the state from strategic sectors of the economy; the deregulation of markets and the end of redistribution policies; the opening-up of all sectors of the economy to the flow of capital; the establishment of international trade links and the dismantling of protectionist measures supporting local production; and counter-inflationary monetary policies and fiscal rigor.[8]

The succession of economic crises in the 1990s—both regionally, such as the Mexican and Brazilian crises, and globally, such as the Asian crisis and the Russian currency crisis of 1998—severely tested the model's ability to generate growth and resilience

6 Daniel J. Corbo, "La transición de la dictadura a la democracia en el Uruguay. Perspectiva comparada sobre los modelos de salida política en el Cono Sur de América Latina", *Humanidades: revista de la Universidad de Montevideo*, año n°7 (2007): 23-47.

7 Sandrine Lefranc, "La justice transitionnelle n'est pas un concept," *Mouvements* 53, no. 1 (2008): 61-69, https://doi.org/10.3917/mouv.053.0061.

8 Douglas A. Irwin and Oliver Ward, "What is the Washington Consensus?" *RealTime Economics* (blog), Peterson Institute for International Economics, September 8, 2022, https://www.piie.com/blogs/realtime-economic-issues-watch/what-washington-consensus.

in the face of shocks.[9] An almost dogmatic application of price stability and open-market policies deprived governments of the capacity to act on monetary policy and protect domestic production. Maintaining key interest rates at high levels drastically reduced borrowing and investment capacity, paralyzing the productive fabric, which was vulnerable to external hazards. The ensuing contraction in activity highlighted the fragility of the employment conditions that had developed: low productivity, meager wages, and precarity.[10]

In the face of the crisis, informality began to spread to most economic sectors. Meanwhile, the decline in activity led to a drastic reduction in tax revenue, which, in combination with the existing debt, put public spending under severe pressure, leading some countries (such as Argentina) to default on payments in 2001. On the eve of the new millennium, Latin America had the highest level of inequality in the world.[11] The social cost of the 1990s was so high that public opinion demanded a radical transformation.

Meanwhile, the end of the Cold War had changed Washington's geopolitical priorities vis-à-vis the continent. The US had ceased to see the Latin American countries as an area of major strategic interest; instead, Washington's focus had come to be supporting the transition to democracy through a variety of cooperative programs conditioned on the implementation of structural reforms. After years of violent struggle against hotbeds of communism during the Cold War, the U.S. government's military and economic aid had come to be directed against two new priorities: drug trafficking and clandestine migration.[12] The new programs could be supported and financed by multilateral organizations such as the International Monetary Fund (IMF), the World Bank (WB), and the Inter-American Development Bank (IADB). The US envisioned that would be brought to fruition through the creation of a free trade area that would include 34 countries of the Western Hemisphere, the Free Trade Area of the Americas (FTAA)—a major endeavor.

Faced with the deterioration of their situation, some Latinos opted to work in the informal sector or to participate in black markets.[13] Meanwhile, policies against drug trafficking became more militarized. In countries such as Colombia, Bolivia, Peru, and Mexico, this led to a perception that poverty could being fought with violence, at a time when these states had almost completely ceased to engage in social policy. The violence generated both by the strict application of a costly model for socioeconomic transformation, on the one hand, and by the expansion of a parallel economy that fomented insecurity and precarity, on the other, deepened the rupture between elites and large segments of civil society.

This regional component was vital insofar as it allowed voices critical of liberalism to name those responsible for these failures: the U.S. government, along with international donors, which were seen as complicit with the political elite in weakening Latin American countries' sovereignty.

9 "Proyecciones América Latina 1999 – 2000," ECLAC/CEPAL. División de estadística y proyecciones económicas, December 1, 1999, https://www.cepal.org/es/publicaciones/31364-proyecciones-latinoamericanas-1999-2000.

10 Ibid.

11 NU.CEPAL, *A Decade of Social Development in Latin America, 1990 – 1999* (Santiago: ECLAC, 2004), https://www.cepal.org/en/publications/2383-decade-social-development-latin-america-1990-1999.

12 Soeren Kern, "What Are US Interests in Latin America?" *ARI* 141 (2005), https://www.realinstitutoelcano.org/en/analyses/what-are-us-interests-in-latin-america-ari/.

13 NU.CEPAL, *A Decade of Social Development in Latin America, 1990 – 1999*.

The combination of these phenomena, which differed for each country, nourished the ground for demands and discourses of rupture. Liberalism was said to be responsible for increases in poverty and inequality, as well as for the creation of an oligarchy that governed according to a technocratic manual of reforms while ignoring the political reality. Moreover, for the model's detractors, the critique of (neo)liberalism was not limited to questioning reform policies, but included denouncing the omniscience of an ideological matrix that, according to them, had been imposed by "Western colonization"[14] on the rest of the world. Liberalism, they alleged, had orchestrated a trusteeship from which countries needed to emancipate themselves in order to recover their confiscated sovereignty. In practice, this criticism translated into the rejection of what has been presented as the tacit consensus of the entire political class around liberal-developmentalist prescriptions.

In other words, despite the pluralism that had been established since the return of democracy, critics observed that the main parties competing in the electoral arena proposed political and economic programs that followed the same ideas. Thus, in addition to their lack of social anchoring, the political parties gradually lost their credibility due to the sharp deterioration of the socio-economic situation in several Latin American countries and that reinforced the desire to break away from liberalism and the party systems. The latter were accused of being accomplices in a plunder organized by external powers, led by the United States, with a view to maintaining control over the development capacities of Latin American countries.

The series of Latin American elections that began in 1998 with the election of Hugo Chávez as head of Venezuela gave these discordant voices the opportunity to begin overthrowing the ideological monopoly that they denounced. Almost in succession, Latin American voters turned to alternatives that declared themselves to be of the left and advocated for a relatively radical break with liberalism. After Venezuela, the socialist candidate of the Concertación, Ricardo Lagos, was elected president of Chile in 1999. Then followed the elections of Lula da Silva in Brazil in October 2002, Néstor Kirchner in Argentina in May 2003, and Tabaré Vásquez as the head of the Frente Amplio (Broad Front), which unites several left-wing groups in Uruguay, in October 2004. Evo Morales was elected president of Bolivia in 2005, and Rafael Correa and Daniel Ortega followed in 2006 in Ecuador and Nicaragua, respectively.

All of these parties and coalitions and their leaders are anchored in particular histories, ideological lines, and national contexts. The social democracy of President Ricardo Lagos' Concertación in Chile, rooted in the long militant and partisan history of the Chilean left, for instance, was quite different from the national-popular and anti-capitalist "Bolivarian Revolution" theorized by Chávez in the 1990s. Yet they shared the ambition of giving the state greater capacity to intervene in the economic sphere, in some cases through the nationalization of enterprises and strategic resources, with the goal of enabling the state to redistribute wealth and thus return to playing a central role in social policy. They also aimed to restore the state's budgetary, commercial, and monetary sovereignty, including by reducing their dependence on international donors, and questioned the economic cooperation and development programs supported or supervised by the United States.

14 For a synthetic overview of this historical philosophical opposition to liberalism, see Catherine Andrews and Ariadna Acevedo Rodrigo, "One Hundred Years of Arrogance: Why 'Western' Liberalism Won't Save Latin America," *LSE Blogs,* June 4, 2020, https://blogs.lse.ac.uk/latamcaribbean/2020/06/04/one-hundred-years-of-arrogance-why-western-liberalism-wont-save-latin-america/.

In sum, this mosaic of left-wing governments had a common desire to overthrow the "liberal consensus" of the 1990s, albeit following different political programs depending on the national context. This can be referred to as the Latin American "pink tide" or "left turn" of the 2000s. Today, a few years after this "pink tide," it is possible to characterize the discourses and positions that have conveyed this rejection of liberalism as illiberal. Illiberalism, in this sense, is not an ideology with its own doctrinal content. Instead, it refers—and has gradually given coherence—to a bundle of disparate experiences brought together by their rejection of liberalism. In Latin America, the meta-narratives of the "pink tide" that have produced this critical coherence can be grouped as follows:

Critique of market democracy/democratic capitalism

The criticism here is of the inextricable link between the democratic political system and the functioning of the economy governed by the principles of liberalism. Initially, none of the governments that emerged from the "pink tide" questioned the institutional achievements of the transition to democracy, which had made it possible for all citizens to participate in political life through suffrage. They did, however, point to the lack of conditions for the exercise of real democracy due to the application of neoliberal economic principles that deepened social inequalities instead of alleviating them. This global critique has taken form in different lines of political action, ranging from widespread wealth redistribution policies such as the "Bolsa Família," introduced in Brazil during Lula da Silva's first term, to the virulent anticapitalist speeches of the governments that have followed the Bolivarian line promoted by Chávez.

More recently, in Venezuela, but also in Nicaragua and Bolivia, there has been a progressive dismantling of electoral institutions and the system of representation. Indeed, these three countries have experienced serious dysfunctions in their electoral processes and violent attacks on political rights since the rises of Chávez,[15] Evo Morales,[16] and Daniel Ortega,[17] respectively. This shows that the desire for rupture expressed by the most radical forms of rejection of liberalism went beyond purely economic considerations. For this left, the effectiveness of the profound transformations included in their political programs required a gradual overthrow of the democratic institutions that had preceded their rise to power.

Cultural-colonial liberalism

Unlike in Europe, the restoration of national sovereignty has been an inextricable component of the struggle for social justice led by Latin American leftwing parties and movements. The latter perceived the liberal experience of the 1990s as having confiscated this sovereignty due to the imposition of political and economic choices by international donors and the U.S. government. Several left-wing discourses (those of Morales, da Silva, José Mojica, and Chávez) equated neoliberalism with the colonial plundering of the Spanish Empire and appealed to the historical memory of

15 "Venezuela: Events of 2022," Human Rights Watch, accessed March 6, 2023, https://www.hrw.org/world-report/2023/country-chapters/venezuela.

16 "Bolivia: Events of 2022," Human Rights Watch, accessed March 6, 2023, https://www.hrw.org/world-report/2023/country-chapters/bolivia.

17 "Nicaragua: Events of 2021," Human Rights Watch, accessed March 6, 2023, https://www.hrw.org/world-report/2022/country-chapters/nicaragua.

the wars of independence of Latin American countries[18] in calling for a continuation of that struggle against this "new phase of imperialism."[19]

But this reification of an existential enemy in the figure of liberalism and its promoters is not linked solely to the origins of Latin American nations. Another explanation can be found in the very history of Latin American leftist movements and their ideological and militant anchoring in the Cold War. Some of these political movements originated in armed struggle, among them the Sandinista National Liberation Front of Nicaragua's current president, Ortega. Similar movements have produced leading government cadres in other states: former president of Uruguay José Mojica had his political formation as part of the Tupamaros guerrilla movement. Other movements are left-wing parties with a tradition of dissidence during the era of dictatorships, such as the Chilean Socialist Party, or were founded by former members of these parties during the transition to democracy, such as the group of intellectuals and academics who founded the Movement towards Socialism in Bolivia. These diverse movements, parties, and leaders all claimed to be Marxist and socialist, making the fight against capitalism and "American imperialism" the founding vector of their mobilization.

The appeal to the memory of the wars of independence also configures the political identity upon which each of these movements, parties, and leftist leaders have built their quest for autonomy and/or sovereignty. Thus, the majority of Marxist and Maoist guerrillas that engaged in armed struggle exploited the image of sacrifice of the Indigenous revolts that broke out during the last decades of the Spanish presence in America. These revolts were incorporated into the historical narrative of the wars of independence in order to nourish the national imaginaries of those countries of the region that have substantial—even majority—indigenous populations.

In doing so, they reminded us that their struggle was ideologically anti-imperialist, but also anti-colonialist, since it aimed to restore the political authority of the Indigenous peoples on their ancestral land. Their relationship to sovereignty is thus defined according to an identity framework that can be described as Indianist. The archetypal movement in this regard is the Uruguayan Tupamaros, but others include the Peruvian MRTA (Movimiento Revolucionario Túpac Amaru), the Bolivian EGTK (Ejército Guerrillero Túpac Katari) of former vice-president Alvaro Garcia Linera, the OPRA (Organización del Pueblo en Armas) during the Guatemalan Civil War, and even the EZLN (Ejército Zapatista de Liberación Nacional) in Mexico.

Among the "pink tide" governments, the most complex attempt to structure this form of sovereignty was undertaken by the Bolivian Movement towards Socialism when Morales became president in 2006. In principle, it was a socialist political project combined with a demand to enshrine the indigenous nations as the preferred collectives around which the whole social contract and government regime was structured in the constitution (approved in 2009). The changing of the country's name from the Republic of Bolivia to the Plurinational State of Bolivia clearly highlights this intention.

Another configuration of this sovereigntist struggle is regionalism, embodied most visibly by Venezuelan Bolivarianism. The appeal to the memory of the wars of

18 Carlos Malamud, *El sueño de Bolívar y la manipulación bolivariana: Falsificación de la historia e integración regional en América Latina* (Madrid: Alianza editorial, 2021), 295.

19 For an overview of this geopolitical analysis, see Atilio Boron, *América Latina en la geopolítica del imperialismo* (Hondarriba: editorial Hiru Argitaletxea, 2013), 521, https://www.mintrabajo.gob.bo/?p=2993.

independence is heavily emphasized here, as this political project seeks to revive unfulfilled efforts to unify the former Spanish colonies of America into a single political entity. Indeed, "Bolivarianism" refers to the project of the one whom Latin American historiography praises as "the liberator" of America, namely Simón Bolívar.[20] Although Bolívar's original project took the more ambiguous form of a league of independent nations, the romanticized memory of the sequence of wars of independence, amply exploited by Bolivarian communication and propaganda, retains the idea of a desire for unification that is being prevented by obscure political and private interests. For the Bolivarian left, which claims to be part of this movement, it is a question of continuing Bolívar's unfinished effort to consolidate the sovereignty of Latin American nations vis-à-vis the powers that have taken advantage of their division, in particular the United States.

Other manifestations of this regionalism have also emerged, such as the Patria Grande ("the Great Homeland"), which originated from the pen of the Argentine lawyer and leftist activist Manuel Ugarte in a book written in 1922,[21] and, more recently, the decolonial and Indianist vision of "Abya Yala."[22] Ugarte's concept of a great homeland joins other intellectual and revolutionary ideas that appeared in Latin America between the end of the nineteenth century and the middle of the twentieth century and combined nationalism with ideas of social justice, often inspired by socialist and Marxist principles. These expressions converged on two essential points: rethinking the condition of Latin America as a formerly colonized space in order to generate a strong regional identity; and categorically rejecting any new expansionist covetousness akin to American imperialism in the twentieth century. The term "Great Homeland" has featured prominently in the rhetoric of several "pink tide" leaders, including Correa, da Silva, and Chávez, but especially Argentina's former president, Cristina Fernández de Kirchner.

Distinct from its European ethno-national and culturalist side, the Latin American left has constructed its idea of sovereignty within a relationship of the weak to the strong, taking colonial history and the wars of independence as the starting point of a still-unfinished struggle for autonomy, sovereignty, and identity.

Critique(s) of geopolitical liberalism

This critique follows directly from the previous one. In this narrative, liberalism is the ideology of the strong, for under the veil of freedom and respect for individual rights hides a real intention to expand, conquer, and eliminate alternative models. The unity so advocated by regionalist discourses is thus based on geopolitical reasoning, since it aspires to rebalance power relations between the dominant liberal narrative and anti-imperialist models that represent the "voice of the people." This posture is brandished internationally to attack the foreign policies of Western countries. Most often, it is formulated as a denunciation of Western states' willingness to disregard the principles that govern the inviolability of state sovereignty in international law as soon as their own interests are at stake.

20 Nelson Martínez Díaz, "Simón Bolívar: el proyecto inconcluso," *Cuadernos Hispanoamericanos* 401 (November 1983): 5–20, https://www.cervantesvirtual.com/obra/simon-bolivar-el-proyecto-inconcluso/.

21 Manuel Andrés García, "De la Patria Grande a la Madre Patria: Manuel Ugarte y el hispanoamericanismo español (1900–1930)," *Revista de las Indias Vol. LXXIV, no. 261* Hondarriba: editorial Hiru Argitaletxea 591–622, https://doi.org/10.3989/revindias.2014.020.

22 For an overview of this decolonial paradigm, see Enrique Dussel, *El encubrimiento del otro. Hacia el origen del mito de la modernidad* (Madrid: Editorial Nueva Utopía, 1993).

In the particular case of the Latin American left, the criticism has been fueled by memories of U.S. interference, whether in the form of military interventions, political and material support for military and civilian dictatorships, or operations carried out in support of the so-called "counterinsurgency" during the Cold War. Today, the elements of language and the speeches that are derived from them interpret the regional stakes according to the same reading keys that dominated the second half of the twentieth century, despite the radical change of context. Some "pink tide" governments, particularly those of the Bolivarian axis, have constructed a foreign policy narrative according to which there is an imminent threat of U.S intervention to overthrow them. This narrative was widely emphasized during the postelection crises in Venezuela in 2018, Bolivia in 2019, and Nicaragua in 2020; challenges to the processes and results of the elections by opposition forces led the incumbent leaders—Nicolás Maduro, Morales, and Ortega—to condemn and vehemently denounce supposed U.S. interference to destabilize them.

These accusations have effectively recreated the illusion of self-fulfilling prophecies about the supposed American threat to left-wing governments. The staging of these prophecies and the narratives they generate remains a major element of the information warfare in which several pink-wave governments have engaged since their formation in the 2000s. The creation of the TeleSUR news channel in 2005 by the Chávez regime is emblematic of this. Relaying disinformation and propaganda in support of the Bolivarian project, the regional and international mission of the channel is reflected by the ideology it broadcasts to the vast Latin American audience it targets.[23] In fact, Chávez managed to mobilize several left-wing governments to collaborate logistically and participate as shareholders in the channel's early years.

In addition to the governments that followed the Bolivarian line (Venezuela, Bolivia, Nicaragua, Ecuador, and Cuba), Argentina under President Nestor Kirchner and Uruguay under President Vasquez also joined in. On the extraregional level, TeleSUR had initially signed a cooperation agreement for the development of joint productions with the Qatari channel Al Jazeera, from which it drew much of the inspiration for its creation. Subsequently, TeleSUR expanded this cooperation framework to work with IRIB (Islamic Republic of Iran Broadcasting), whose Spanish language subsidiary is HispanTV; with the BBC; and then with RT en Español, Al Mayadeen (Lebanon), and finally China's CGTN.[24]

The intention is to spread throughout the Spanish-speaking world a discourse of mobilization against American imperialism, but also to provide a range of alternative readings of events that enable viewers to understand the world in a register different from the dominant Western liberalism. Inspired by the concept of "hegemony" put forward by the Italian philosopher Antonio Gramsci, this desire to overturn liberalism as a factor of cultural hegemony is one of the most consolidated forms of action of this geopolitical dimension within the "pink tide." The discourses, practices, and narratives that prove the failure of liberalism in the different countries are gathered and transformed into media events, producing what can be described as a counter hegemonic dialogue.

It is this dialogue that allows the articulation of a bundle of experiences gathered around a rejection of liberalism and the West, despite the heterogeneous nature of

23 Pablo Sebastian Morales, "Counter-Hegemonic Collaborations or Alliances of the Underdogs? The Case of TeleSUR with Al-Mayadeen, RT and CGTN," *Global Media and Communication* 18, no. 3 (2022): 365–382, https://doi.org/10.1177/17427665221125549.

24 Ibid.

the contexts in which this rejection occurs. It is thus about an elastic articulation, whose coherence is heteromorphic since it acquires a political sense only according to the context and the event that it covers. This articulation follows what Zygmunt Baumann describes as the logic of the postmodern world: it is shaped by media immediacy, economic and cultural globalization, a fragmented world of competing and contrasting identities, and the idea that knowledge is inter-subjective and self-referential.[25] It is this type of articulation that today structures the essential relations between Russia and Latin American countries.

The Russo-Latin American Dialogue, or the Construction of a Singular Illiberal Ideological Line

After the fall of the USSR, Russia underwent profound changes constituting a liberal shift—experienced as a crisis of meaning with multiple dimensions. During the Boris Yeltsin years, Russia endured a painful transition to a market economy, marked by a destatization that brutally drained the state's fiscal resources while drastically reducing its macroeconomic levers of intervention. The spectacular fall in life expectancy was accompanied by a deepening of inequalities between the beneficiaries of opaque privatizations and the vast majority of Russians, whose life savings had been wiped out—and their incomes reduced to almost nothing—by the ruble's uncontrolled inflation.

As in some Latin American countries, a poorly regulated informal subsistence economy left Russian society prey to corruption and the violence of criminal groups. Finally, in the face of unfulfilled promises of prosperity, a desire to regain political control that was fiercely opposed to liberalism asserted itself. This was expressed in Latin America by the public voting out incumbent liberal governments in favor of the "pink tide," and in Russia through the change of course of Yeltsin's successor as head of state, Vladimir Putin. It should be noted that the reforms of the 1990s in Russia and Latin America proceeded from the same liberal intellectual root and tended toward the same recommendations.[26]

These similarities should not obscure the fact that the Russian and Latin American trajectories actually differed in important ways, especially in terms of the degree of state ownership of their economies, the weight of their industrial sectors, and these industrial sectors' capacity to absorb labor. However, the correlated socio-political effects led to similar interpretations of and reactions to liberalism. In both cases, politicians emphasized the need to contest these reforms—perceived, rightly or wrongly, as harmful—in order to break with the prevailing model of society and provide populations with the new path they sought. The denunciation of liberalism, its institutions (the IMF, the World Bank), and its promoters (the United States, the West) thus led to a confluence of reactionary visions and common feelings much more than it opened the way to new, sustainable political alliances structured around alternative common values. This was the starting point of the counter hegemonic dialogue between Russia and the Latin American countries that would later produce a true illiberal entente.

25 Laruelle, "Illiberalism: A Conceptual Introduction."

26 Anouk Jordan and Julien Vercueil, "Gouvernance et transition : le rôle du FMI dans la conduite des réformes en Russie" (paper prepared for the 16th International Symposium on Money, Banking and Finance, University of Poitiers, Poitiers, France, 1999).

Weakness of Structuring Geopolitical Elements and the Pre-Eminence of Political Relations

The advent of the "pink tide" in the early 2000s coincided with a reinvention of Latin American geopolitics. In addition to this major political reversal, there were profound changes in strategic orientation in Washington after September 11, 2001, as well as the beginning of a period of growth unprecedented in Latin America's economic history. This provided the impetus for the creation of new—competing—dynamics of regional integration, such as the Union of South American Nations (UNASUR), the Bolivarian Alliance for the Peoples of Our America (ALBA), the Pacific Alliance, and the Community of Latin American and Caribbean States (CELAC). This momentum attracted the attention of emerging powers that, a decade after the Cold War, began to jockey for position with the United States in what had historically been its Latin American "preserve," first and foremost China. This opening of Latin America to the rest of the world was part of the globalization desired and promoted by Western countries. At least initially, the revival of relations between Russia and Latin American countries could be viewed as part of that trend.

If the first attempts at rapprochement were the work of Yevgeny Primakov as Minister of Foreign Affairs, it was during Putin's presidency that these exchanges progressively took a concrete form, thanks to the successive electoral victories of Latin American leftwing parties. The latter sought to diversify their partnerships, and Russia appeared to be one of the most promising options due to the size of its economy and the reputation for technical and scientific know-how that it had inherited from the Soviet period, both of which were attractive to countries seeking modernization.

Twenty years after these first exchanges, it is clear that the overall results of these relations are mixed. Russia suffers from comparisons with China, which has successfully pursued political and economic agendas in Latin America. For Russia, Latin America represents only a tiny part of its trade balance, having never exceeded 2.6% since 2000. In 2020, the volume of trade between the two regions was $11.9 billion, 64 and 26 times lower than the United States and China, respectively. Russia represents only the 15th fifteenth-largest export market for Latin American products—behind such countries as the Netherlands, Spain, India, and South Korea—and is the twentieth-largest supplier of goods to Latin America. Moreover, the dynamics of this trade have been declining for about ten years (having peaked in 2013 at $18 billion), a situation that has only been aggravated by the war in Ukraine.[27]

Russia has few economic tools to offer to Latin America, but the two it has concern critical strategic aspects: the military-industrial complex and energy production-related sectors (hydrocarbons, civil nuclear power, and hydroelectricity). Yet its influence in these spheres is circumscribed by politics and geography. Russia has concentrated most of its economic efforts on a limited number of countries in the region. First, there are the major regional economies, specifically Brazil, Russia's leading trade partner in Latin America. Being better integrated into global value chains, these countries have higher requirements than the rest of the continent when it comes to establishing partnerships, contracts, and cooperation projects. Russia has therefore had difficulty positioning itself in these markets, mainly due to the overwhelming weight of Chinese competition, which is better equipped to meet their economic, technological, and financial expectations.

27 Yana Leksyutina, "Russia's Economic Outreach in Latin America," Center for the Study of the Global Economic Future, August 23, 2021, https://www.csgef.org/russias-economic-outreach-in-latin-america.

Then there are the countries of the Bolivarian axis, in which Russia has successfully invested most of its efforts. These include Venezuela, Nicaragua, Bolivia, Cuba, and to a lesser extent Ecuador, with Venezuela becoming the archetype of Russian success in Latin America. The radical anti-Americanism shared by Chávez and Putin, as well as their praetorian practices of power, consolidated a relationship of trust between the two leaders that gradually translated into an unprecedented rapprochement. Since 2000, this rapprochement has intensified as events have sharpened their perceptions of the threat represented by the United States and its Western allies.

The favorable reception in Caracas of Vladimir Putin's speech at the 2007 Munich Security Conference marked a first political milestone. This later led to Venezuela's refusal to recognize the independence of Kosovo, and then its support for Russia during the war in Georgia and recognition of the independence of the separatist regions of Abkhazia and South Ossetia.[28] For Chavez, the Munich speech clarified that he and his Russian counterpart were converging on a shared view that a unipolar world—with, in Putin's words, "one single center of power, one single center of force and one single master"[29]—was unacceptable. Chavez interpreted this declaration through the prism of the geopolitical considerations enshrined in the "Simon Bolivar Project 2007 – 2013," which proposed to "consolidate an emerging integral political alliance under the basis of common anti-imperialist interests." Venezuela targeted three countries for inclusion in this alliance: Iran, Syria, and Russia.[30]

For his part, Putin saw Chavez's support as an opportunity to test the thesis of the equivalence of spheres of influence, which made Latin America the mirror of Russia's "near abroad." According to this geopolitical vision, inherited from the Soviet period, to the degree that the United States intervenes in Russia's sphere of influence in Eastern Europe, the Caucasus, or Central Asia, Russia must reciprocally make its presence felt in Latin America. Thus, during the Georgian war of 2008, Russia sent Tu-160 strategic bombers to Venezuela for a joint naval exercise in the Caribbean. Sea as a counterpoint to U.S. support for an increasingly pro-Western Ukraine and Georgia; in 2010, Chávez offered Russia the use of a Caribbean coastal air base.[31]

This type of military posturing, based on the reciprocity of influence zones, has occurred each time Russia has evoked a threat to its security emanating from the West, as with the first Russo-Ukrainian conflict of 2013, and 2018.[32] But in practice, it has never translated into a real Russian willingness to take military action in the Western Hemisphere (such as in Syria), even when the Maduro regime faltered in 2018. Russia's 2022 invasion of Ukraine demonstrated the lack of credibility of this vision, despite the Foreign Policy Concept of Russian Federation's claim that its main

28 Vladimir Rouvinski, "Russian-Venezuelan Relations at a Crossroads," Wilson Center Latin American Program—Kennan Institute (February 2019), https://www.wilsoncenter.org/publication/russian-venezuelan-relations-crossroads.

29 "Putin Says U.S. Wants to Dominate the World," *Reuters*, February 10, 2007, https://www.reuters.com/article/us-russia-usa-idUSL1053774820070210.

30 Alexandra Sitenko, "Latin American Vector in Russia's Foreign Policy: Identities and Interest in the Russian-Venezuelan Partnership," *Politics in Central Europe* 12, no. 1 (April 2016): 37–57, https://doi.org/10.1515/pce-2016-0003.

31 John E. Herbst and Jason Marczak, "Russia's Intervention in Venezuela: What's at Stake?" *Policy Brief*, Atlantic Council Eurasia Center and Adriene Arsht Latin America Center (September 2019), https://www.atlanticcouncil.org/wp-content/uploads/2019/09/Russia-Venezuela-Policy-Brief.pdf.

32 Ryan C. Berg, "What Does Russia's War in Ukraine Mean for Latin America and the Caribbean?," *Crisis Crossroads*, Center for Strategic and International Studies (March 2022), https://www.csis.org/analysis/what-does-russias-war-ukraine-mean-latin-america-and-caribbean.

partners in Latin America have been "strategic" since 2013.[33] Thus, the declarations of Deputy Foreign Minister Sergei Ryabkov that Moscow could not rule out sending "military infrastructure" to Venezuela or Cuba should tensions with Washington continue to rise,[34] have never translated into concrete action. Also, considering the already examined limits of their economic partnerships, one observe in fact that Russia does not see Latin America, neither as a space, nor as a set of truly strategic partners.

On another issue, Putin and Chavez wanted to build an economic development model based on the exploitation of the rich reserves of raw materials they had at their disposal, in order to provide the political decision-making centers with the resources necessary to carry out their programs and thus liberate them from the institutional constraints of democracy. Naturally, Venezuela became a host country for Russian energy and arms companies, both of which it was the leading importer until 2016, absorbing more than half of Russia's exports to the region in this sector. As a proxy for the Russian regime, the Russian oil company Rosneft has also played an important role in the development of the economic crisis that has hit Venezuela since 2016, obtaining concessions for the exploitation of Venezuelan oil in exchange for debt refinancing and loans to support PDVSA (Petroleos de Venezuela) and the Maduro regime.

The rest of the countries in the region have developed diplomatic relations of a purely protocolary nature, limited to mutual recognition and friendship (supplemented by occasional deals). For Russia, the Latin American countries constitute a reservoir of favorable votes in the United Nations General Assembly, especially on resolutions concerning the crises that oppose it to Western countries. However, it would be wrong to interpret these votes as systematic alignment with an antiWestern bloc led by Russia. The degree to which Latin American countries have voted with Russia has varied depending on the issue and/or the period, implying that they tend to be affected by the influence games that take place in the corridors of UN diplomacy. This demonstrates the extreme weakness of Russian bilateral diplomacy, which is engaged, above all, in a quest for short-term economic opportunities.

Although Russia has limited influence at the regional level, it nevertheless enjoys significant levers of action in certain countries. Like the Bolivarian regimes, its influence proliferates in political spaces where illiberalism has gradually become a principle of action. This illiberal political agreement, which creates links between countries, is the dominant element to which the economic, commercial, technical, and cooperation dimensions are subordinated.

Materialization of the Illiberal Agreement and Levers of Russian Influence in Latin America

This subordination of structural elements in the construction of links between countries constitutes a new practice in international relations. Illiberalism, through the counter-hegemonic dialogue, is also the producer of a system—that is, of a mechanism of relations between states that takes advantage of the hypertension

33 Vladimir Rouvinski, "El retorno ruso. Cinco claves para entender las relaciones de la Rusia postsoviética con América Latine y el Caribe," *Fundación Carolina Documento de Trabajo* 36 (2020), https://www.fundacioncarolina.es/el-retorno-ruso-cinco-claves-para-entender-las-relaciones-de-la-rusia-postsovietica-con-america-latina-y-el-caribe/.

34 "Russia Suggests Military Deployment to Venezuela, Cuba if Tensions with U.S. Remain High," *The Wall Street Journal*, January 13, 2022, https://www.wsj.com/articles/in-u-s-russia-talks-over-ukraine-kyiv-gets-a-voice-11642061460.

of the media flow to generate a countercurrent of discourses and images. This countercurrent seeks to extract political added value from the facts according not to a rational evaluation of technological, economic, or social contributions that feed the debate, but to the opportunity to demonstrate the defeat of the universal, humanistic, democratic, and individualistic claim of liberalism. It is worth remembering that, as Marlene Laruelle argues, "for Russian elites and for a large part of population, illiberalism supplies an appealing framework for making sense of the world. It is, for many Russians, a genuine producer of common sense."[35] Along these lines, the so-called "Young Conservatives" school of thought promotes the idea that the future of the country depends on the adoption of illiberalism (or, to use the term most commonly employed in Russia, "conservatism") as a vehicle for a dynamic of radical change and opposition against the global liberal status quo. From a philosophical point of view, this Russian conservatism is radically skeptical of the notion of freedom in the Enlightenment sense, in which each individual becomes a historical actor thanks to their own choices. It is also wary of ideas of progress and universalism, and relies heavily on a cultural-civilizational approach to history to emphasize the importance of culture and ideas in social development.[36]

Given its heterogeneity, the ideology that unifies the Latin American left is more difficult to define. Its critique of neoliberalism, largely imbued with Marxist-Leninist elements, refers to an approach that philosophically aspires to humanism and universalism. On the other hand, the construction of alternative proposals generally calls for systemic reversals, the content of which may contradict the values inscribed in the philosophical foundations of the critique. For instance, the decolonial sovereigntist approach aims to reconnect with the true identity of the peoples of America, the one that preceded the arrival of "modernity" under the aegis of European conquest. The Argentinian-Mexican philosopher Enrique Dussel expresses this vision:

> It is necessary to change skin, to have new eyes. Will no longer be the skin and the eyes of the Conquiro Ego who will end up in the Ego Cogito or in the "will-to-power". Must no longer be the hands that grasp the iron, and the eyes that see from the carabellas to the "European intruders" and cry "Land!" next to Colon. Now we must be the soft tanned skin of the Caribbean, the Andean, the Amazonian. [...] We must have the skin of the other, of another ego, of an ego from which we must reconstruct the process of its formation (like the other face of modernity) [...] To change skin like the serpent, but not like the one that tempted Adam in Mesopotamia, but the "feathered serpent", the Divine Duality (Quetzalcoatl), which "changes skin" to grow. Let's change our skin, let's adopt that of the Indian, the African slave, the humiliated mestizo, the impoverished peasant, the exploited worker, the marginalized who by the millions has gone back to Latin American cities.[37]

35 Marlène Laruelle, "Making Sense of Russia's Illiberalism," *Journal of Democracy* 31, no. 3 (2020): 115-129, http://doi.org/10.1353/jod.2020.0049.

36 Elena Chebankova, "Russian Fundamental Conservatism: In Search of Modernity," *Post-Soviet Affairs* 29, no. 4 (2013): 287-313, https://doi.org/10.1080/1060586X.2013.786579.

37 Dussel, *El encubrimiento del otro*, 83-84.

Even if, unlike in Russia, this vision has not been "étatized"[38] wherever the left has ruled, a strong regional solidarity has served to symbolically highlight the ideological proximity of the "pink tide" despite its diversity. To wit, despite the predominance of Bolivarian rhetorical approach in Venezuelan regionalism, Hugo Chavez did not hesitate to seize, in his speeches, on the essentialist dimension that prevailed in Evo Morales' Bolivia in order to recall the unity of the Latin American left. But the most significant room for expression of these ideological and political solidarity were the "Sao Paulo Forum." Created in 1990 with the aim of "moving forward with consensual proposals, in a spirit of unity of action, in view of anti-imperialist and popular struggles,"[39] this body served as a dialogue platform for governments of the pink tide, as well as for left-wing parties and activists from all over Spanish-speaking world. It would also be the point of departure of large-scale regional integration initiatives, such as UNASUR. Some right-wing governments and conservative parties in Latin America (former Colombian president Alvaro Uribe, former Brazilian president, Jair Bolsonaro, etc.) have accused the Sao Paulo Forum of fomenting the destabilization of democracy in the region, by giving the organization more power than it actually has.[40] Nevertheless, it is certain that the Sao Paulo Forum, as well as other less visible rooms, allowed a circulation of symbolic and ideological resources that has made it possible to produce coherence through the idea of the convergence of struggles against the "liberal imperialism."[41] It has also made it possible to weld together an activist space dispersed throughout the continent, propelled by the unique linguistic vector of the Spanish language. It is this niche of continental opinion that Russian public diplomacy has particularly targeted, even in countries that have not been ruled by the left.

The many similarities in the construction of alternative models between Russia and Latin America explain the seemingly contradictory rapprochement between Russian Christian civilizational conservatism and the Latin American lefts. Their counter-hegemonic dialogue is rooted not in a pairing of ideas and consolidated political principles, but in the coherence of a flexible ideology that is built by contingencies.

Analysis of the diversity of contexts and sequences that have built this coherence allows us to trace the contours of this counter-hegemonic dialogue between Russians and Latin Americans. I identify three key themes, each of them declined in several forms of action and modes of operation. The materialization of this dialogue is much less ideologically monolithic than that of European civilizational conservatism, giving proof of its praxeological flexibility. Through these guidelines, Russia mobilizes a set of resources of influence that grant it a prominent place within the illiberal entente.

Soviet legacy in the Third World

The Bolivarian movement in particular and the left-wing parties that came to power in the first decade of the 2000s in general bear the imprint of the political struggles waged in various forms during the Cold War years. Anti-imperialism, as well as regionalism of Third World or internationalist origin, resonate with this past and thus appear as legacies and continuities. They manifest themselves in the memory of

38 Laruelle, "Making Sense of Russia's Illiberalism."

39 "Foro de Sao Paulo, Breve historial y fundamentos", (e.g., accessed on April 25, 2023), https://forodesaopaulo.org/breve-historial-y-fundamentos/.

40 "Paro nacional: qué es el Foro de Sao Paulo, al que vinculan con las protestas en Chile o Colombia (y por qué le preocupa tanto a la derecha de América Latina)," *BBC News Mundo*, November 19, 2019, https://www.bbc.com/mundo/noticias-america-latina-50481480.

41 Robert Cooper, "The Liberal Imperialism", *The Guardian*, April 7, 2002, https://www.theguardian.com/world/2002/apr/07/1.

Sandinismo in Ortega's Nicaragua; of Allende's Popular Unity for the Chilean Frente Amplio; and of Fidel Castro's fight against the United States, which in the eyes of Venezuelan Chavists is akin to that of Simón Bolívar against the Spanish Empire.

The USSR bequeathed to the countries of the Bolivarian axis of revolutionary inspiration a model of political administrative organization with ultra-concentrated powers that functioned through a state bureaucracy placed in the hands of a *nomenklatura* and that exalted, ideologically, an anti-imperialist discourse. The patrimonialization of the state apparatus by the ruling parties in these states has resulted in systematic violations of fundamental rights, as well as the criminalization of plural political representation and diversity of opinion.[42]

Outside the Bolivarian axis, the restoration of equipment and infrastructure exported by the USSR, as well as the cooperation mechanisms of the Soviet period, has mainly occurred in the former bridgeheads of Soviet influence in Latin America: Cuba and Nicaragua. However, other countries to which the USSR exported its industrial and military know-how—among them Argentina, Brazil, and Peru—can also be included in this group, despite the ideological distance that separates them from the Bolivarian axis.

Sovereigntism

The denunciation of interventionism and the promotion of a nationalist, regionalist, and/or indigenous popular essentialism, as opposed to the alienation caused by liberal globalization, is one of the major vectors that has energized the dialogue between Russia and Latin American countries. But sovereignty also manifests itself in other forms, for example in the conduct of economic policy. Russia has thus found points of convergence with countries that have engaged in nationalization and the recovery of strategic resources in order to centralize their management and exploitation at the heart of the state.

In the same way, the desire to free their countries from the monetary, financial, and commercial diktat of the IMF, the WTO, and the World Bank have been recurrent leitmotifs of Latin American leaders' policy, generating opportunities for rapprochement between Latin Americans and Russians. One example is the creation of the BRICS' New Development Bank (NDB), which aims to identify alternative sources of development financing. The latter was very active during the COVID19 pandemic, with mixed success. At the bilateral level, Argentine President Alberto Fernández's visit to Moscow on February 2, 2022, a few days before the start of the full-scale invasion of Ukraine, also illustrates the structuring character of the counter-hegemonic dialogue. As the threat of another default loomed over the Argentine state, President Fernández embarked on a tour of several European countries, in addition to Russia and China, in search of partnerships and alternative sources of financing. During their meeting, Fernández is said to have told Putin of his

42 On Venezuela, see Amelia Cheatham, Diana Roy, and Rocío Cara Labrador, "Venezuela: The Rise and Fall of a Petrostate," *Council on Foreign Relations Backgrounder,* last updated March 10, 2023, https://www.cfr.org/backgrounder/venezuela-crisis. On Nicaragua, see Salvador Martí i Puig and Macià Serra, "Nicaragua: De-Democratization and Regime Crisis," *Latin American Politics and Society* 62, no. 2 (2020): 117-136, https://doi.org/10.1017/lap.2019.64. On Bolivia, see Omar Sánchez-Sibony, "Competitive Authoritarianism in Morales's Bolivia: Skewing Arenas of Competition," *Latin American Politics and Society* 63, no. 1 (2021): 118–44, https://doi.org/10.1017/lap.2020.35.

desire to make Argentina "the gateway to Russia in Latin America," while accusing the United States of having a negative influence on the IMF.[43]

Putin's reception of Fernández and Brazilian president Jair Bolsonaro within a few days of each other in February forces us to question the idea that the internal ideological-political positioning of each government explains their rapprochement. After all, belonging to political families as diverse as the Atlanticist far right (Bolsonaro), the Peronist statist left (Fernández), and Russian state conservatism did not prevent a general dialogue that converged around a rejection of the mechanisms of the liberal system. The counter-hegemonic dialogue through sovereigntism is therefore constructed on the contingency of facts and opportunities that allow the production of shared narratives, bringing to light an overall coherence that produces an illiberal discourse.

Political alternative

The projection of Russian influence in Latin America is founded on Russia's self-branding as an alternative to the liberal system dominated by Western countries. In this sense, some Russian initiatives are supported by other transnational actors that have broken with the Western liberal model. We have mentioned the case of the Bolivarian governments, which converge with Moscow on this rejection. But Russia has also been able to count on the support of certain Latin American academic, intellectual, and media elites who, for various reasons, have also broken with the principles of liberalism and are rising up against what they perceive as Western countries' desire for domination and hegemony. Russia has also managed to sway Latin American public opinion, thanks in particular to these media centers: RT en Español, Sputnik Mundo, and Russia Beyond en Español.

Russia has succeeded in embodying this alternative to the West by projecting an image of an independent power, capable of keeping the United States and its allies at bay. For the Latin American left in particular, the figure of the former Soviet superpower plays a major role in the representation it has of contemporary Russia. It should be noted that during the Cold War, the USSR participated in the training of political and military cadres in Latin America, serving as a model for the structuring of militant networks, and set a revolutionary orientation which largely inspired the political projects of the Bolivarian axis. Thus, unlike China, Russia can rely on its past prestige as a valuable symbolic resource for projecting its influence in the region.

Beyond its own symbolic and material resources, Russia also depends on representations of the world that are constructed within the Latin American countries themselves and form their citizens' opinions. This construction is the work of a set of institutions that maintain what Michel Foucault calls "the political economy of truth." Foucault refers to the way in which certain institutions—which he calls "political apparatuses of education and information" (national education, universities, the media, public institutions)—have the power to produce and disseminate discourses that can impose a normativity of reference, or approved truth.[44] In the case of Latin America, the material resources (institutions and equipment) and immaterial resources (quality of R&D, prestige of its institutions, influential media) that allow

43 "Alberto Fernandez le ofrece a Rusia que Argentina sea su puerta de entrada en Latinoamerica," *El Pais*, February 4, 2022, https://elpais.com/internacional/2022-02-04/alberto-fernandez-le-ofrece-a-rusia-que-argentina-sea-su-puerta-de-entrada-a-america-latina.html.

44 Michel Foucault, *Dits et écrits II 1976-1988* (Paris : Gallimard, 2001), cited in Olivier Guerrier, "Qu'est-ce qu'un 'régime de vérité ?" *Les Cahiers de Framespa* 35 (October 30, 2020), http://journals.openedition.org/framespa/10067.

them to structure and sacralize their own space of production of truth—whether in terms of education, production of knowledge, culture, or information—are sometimes, depending on the country, extremely limited.

This makes Latin America a permeable space for the penetration of ideas, information, and diverse contents, not least because there is no normative, institutional, and scientific regulation valid for all the countries of the Spanish-speaking world. The regional context of contestation of models since the rise of the "pink tide" in the 2000s and the exacerbation of political violence since the reemergence in the second half of the 2010s of extreme right-wing political lines have further weakened these systems of reference production. This strong polarization of the political and societal realm in Latin America has largely benefitted Russia, facilitating its media centers' efforts to conduct informational warfare by spreading disinformation and fake news. It is in this field that Russia has achieved its most significant successes in the region.

Informational Influence as a Driving Force behind the Construction of Transnational Illiberalism

Russian public diplomacy focuses on enhancing the domestic, the national, and the regional without making any humanistic promise related to a sharing of universal values. Its mission thus seems to be to enhance local sovereignty (of both the right and the left) insofar as it opposes the changes imposed by a globalized international liberal order that is considered hostile. This sets it apart from the American soft power model, which is based on elites' attraction to liberal democracy, the attractiveness of English as a language for gaining access to the globalized world, and the promotion of consumer society as a means of emancipating the middle classes. The latter is the historical model that has predominated in Latin America since at least 1945.

The creation, in 2009, of RT's Spanish-language branch and its success in Latin America illustrate the extent of the paradigm shift that took place in the 2000s. The channel uses Spanish (not English or Russian) as a vehicle for regional unity and almost exclusively exposes local realities, without promoting a single political and/or economic model. This first information system was completed in 2014 with the creation of Sputnik Mundo and Sputnik Brasil, Spanish-speaking and Portuguese-speaking branches of the Russian news agency that are based in Montevideo and Rio de Janeiro, respectively. Unlike RT, a detailed analysis of the audience of these two media centers is lacking to date. The SimilarWeb platform shows, however, that the site sputniknews.lat (Sputnik Mundo) received 6.6 million visits in February 2023. The main countries from which these visits came were, in order, Argentina, Mexico, Venezuela, Spain, and Chile.[45] As for sputniknewsbrasil.com.br, the platform received 6.9 million visits in that month. The vast majority of these requests came from Brazil (95%), but such countries as Angola, Portugal, and even Chile and France were also represented.[46]

The media ecosystem comprised of RT en Español and the Sputnik agencies prides itself on revealing the hidden aspects of an international system dominated by the United States and Western countries. This claim has a special significance due to the difficult history of inter-American relations and the place of anti-imperialism in the ideological construction of the left in Latin America. Unsurprisingly, the sites'

45 "sputniknews.latClassement," SimilarWeb, accessed April 11, 2023, https://www.similarweb.com/fr/website/sputniknews.lat/#ranking.

46 "sputniknewsbrasil.com.br," SimilarWeb, accessed April 11, 2023, https://www.similarweb.com/fr/website/sputniknewsbrasil.com.br/#overview.

editorial content has largely been slanted in favor of the political processes initiated by the "pink tide" governments and has come to aggressively defend the regimes of the Bolivarian axis. Because of its historically dominant position and the violence of its past interventions, U.S. foreign policy is a prolific subject for the production of (often unfounded) alarmist polemics. These polemics most often take two forms: self-fulfilling prophecies announcing a military intervention by the United States, thus confirming the hegemonic vocation of its policies and values; and deliberately inaccurate interpretations of the facts that would tend to disadvantage American foreign policy and the prestige of Washington. The raw material of this form of media treatment is conflict. Evgeny Pashentsev, a specialist in Latin America at St. Petersburg State University, identifies four types of tensions that can be exploited in the context of informational warfare in Latin America.[47]

International tensions refer to the conflicts between Russia, China, the United States, and its allies, NATO and the European Union. If these conflicts do not directly affect Latin America, they are likely to put focus on Russia's leadership vis-à-vis the West. For example, the former and current Brazilian presidents, Bolsonaro and da Silva, have done little to hide their support for Russia's invasion of Ukraine, even though they disagree violently on almost all domestic issues. While Bolsonaro declared his solidarity with Russia during his visit to Moscow, da Silva blamed both Volodymyr Zelensky and Putin for the war because Zelensky would allow NATO to expand to Russia's borders. The alignment to the Russian argument about the existential threat of Ukraine joining NATO is obvious.

Regional concerns refer to friction between different Latin American countries, especially when it comes to confrontations between pro-U.S. right-wing and anti-imperialist left-wing governments. The tensions on the Colombia-Venezuela border over the passage of the humanitarian convoy stopped by pro-Maduro forces in 2019, or the peace negotiations between FARC guerrillas and the Colombian government (in which the Venezuelan regime has been heavily involved), provide illustrations of this.

National concerns relate to the cleavages between the different political forces of a country, viewed through the prism of a fundamental opposition between the liberal/conservative right and the sovereigntist left. The strong political polarization perceptible, to varying degrees, in almost all Latin American countries has translated into a great political crisis, such as that seen in Brazil at the time of the impeachment of Dilma Rousseff in 2014. We can also mention Peru between 2016 and 2022, or highly contested elections such as those in Bolivia in 2019, where RT has widely defended the coup d'état thesis put forward by former president Morales.

Social concerns relate to the social conflicts generated by the chronic inequalities that affect most Latin American countries, where the scenes of repression of certain mobilizations—most often assimilated to the left—by right-wing governments constitute powerful narrative material. The 2019 mobilizations in Chile against the government of Sebastián Piñera, but also those that took place in Colombia in 2020 against the government of Iván Duque, are clear examples of this form of tension, which has also been exploited by RT.

47 Evgeny Pashentsev, "Strategic Communications of Russia in Latin America," in *Russia's Public Diplomacy, Evolution and Practice*, edited by Anna Velikaya and Greg Simmons (London: Palgrave Macmillan, 2020), 219–231.

Beyond the objective analysis of each of these tensions we observe that the Russian channel invariably defends the posture that is on the left of the political spectrum. The defense of this left-wing line is not limited to the countries of the Bolivarian axis, which are considered intimate with Moscow, but targets the entire left in the Spanish-speaking world. The participation in these media of experts belonging to local think tanks closely linked to the political structures of the left, intellectuals historically attached to leftist values, and former political figures of the "pink tide" as chroniclers and analysts demonstrates the intention to articulate the diverse representations of this spectrum while bringing together political actors, opinion-makers, and activists in a single form of expression.

A series of studies published by actualidad.rt.com on the dissemination of content via social networks and the Web shows that a significant number of socio-institutional spaces (unions, associations, third sector media, NGOs) massively relay materials produced by the channel throughout the region.[48] RT thus serves as an authoritative source of information for the most radical end of the Spanish-speaking left, acting as a distribution center for narrative materials. But it is also a privileged platform of expression for this niche opinion driven by the Gramscian leitmotif of overthrowing the "cultural hegemony" of liberalism. RT makes it possible to recreate a metapolitical solidarity, contributing to the structuring of a militant, partisan, media, and even academic network whose horizon aligns, with astonishing accuracy, with the aims and global ambitions of the Russian state.

Conclusions

The complex intertwining of legacies from the Soviet past, the search for alternatives to the historical monopoly of the United States, and a liberal experience perceived as harmful opened the space for a dialogue between Russia and Latin America that can be described as counter-hegemonic. This exchange aims to demonstrate the failure of liberalism by recounting the confluence of several sources of rejection and contestation of a model that, everywhere, has sought to bend the sovereign will of "peoples" and "nations" in order to dominate them. Also, despite apparent ideological incompatibility, the political culture and intellectual construction of the Latin American left have made possible a dialogue with the multipolar but conservative vision of the world advanced by Moscow.

This exchange obeys less to a strict alignment of political positions than to a convergence of diverse narratives which shape the political coherence of illiberalism. It is a question of producing a shared sense of the world order from a collection of experiences, rejections, and political responses that have emerged in very different contexts yet all converge on the same goal: the overcoming of liberalism as the key to reading the world order and the repositioning of sovereignty as the cornerstone of a decentralized order.

This dimension has progressively become the keystone of the rapprochement observed between Russia and Latin America since the beginning of the 2000s. It refers more to the objectives of international projection of Russian foreign policy than to a strategic imperative that would aim to rebalance power relations with the United States in the two countries' respective zones of influence. Similarly, given the absence of dogmatic elements such as existed during the Soviet period, this influence does not aim to promote a specific alternative political model. If Russia's support for

48 Estéban Ponce De Léon, "A Glimpse into RT's Latin American Audience," DFRLab (Digital Forensic Lab), August 7, 2020, https://medium.com/dfrlab/a-glimpse-into-rts-latin-american-audience-487d52bed507.

the governments of the Bolivarian axis is widely acknowledged, it hardly produced the conditions for their authoritarian turn or the radicalism that has been inscribed in their political programs since they came to power.

Conversely, Russia has taken advantage of the general Latin American situation to increase or maintain its position. In their weakness, the diversity of ties that Russia has with the rest of the Latin American countries, responding to diverse interests, also proves this state of affairs. In the absence of rigid dogmatic content that would underpin this counter-hegemonic dialogue, the narrative foundations that have shaped relations between Russia and the Spanishspeaking world to date are likely to change. Until the beginning of the 2020s, it was the political culture of the left that was most conducive to Russian influence. But the rapprochement between Putin and Bolsonaro since the BRICS meeting of 2020, or the hints of the Salvadoran president Nayib Bukele about the election of proRussian separatists in the face of "Ukrainian fascists who are waging war,"[49] demonstrate the plausibility of a change.

Once again, neither the nature of the regimes nor the equivalence of the political ideas gives a precise idea of the anchoring of this proximity. That being said, the constants in this equation, whatever the regime, are best understood in terms of the meta-narratives we have made explicit: (1) critique of market democracy; (2) critique of cultural-colonial liberalism; and (3) geopolitical critique of liberalism. Since these are the keys to a reading that can be transposed to other contexts, we can describe this dialogue as illiberalism and the various political and diplomatic formulas that produce links between countries as an illiberal agreement.

The future of relations between Russia and Latin American countries is, more than ever, foggy. The outbreak of the war in Ukraine, as well as the internal changes in Latin American politics more than twenty years after the rise of the "pink tide," seems to announce a new phase of stagnation in the absence of substantive initiatives. . On the one hand, the arrival or return of left-wing governments after 2018 does not seem to have changed the traditional posture of this group with regard to Russia. Chilean President Gabriel Boric is pursuing the same cautious line as his left-wing predecessor Michelle Bachelet, after the parenthesis of Sebastian Piñera from the traditionally Atlanticist right. Conversely, the governments of the Bolivarian axis maintain their loyalty to the Kremlin, offering Russia solutions commensurate with their ability to help it circumvent Western sanctions. The Bolivian government of Luis Arce, for instance, now intends to use the ruble as a transaction currency with Russia.[50] Along similar lines, Da Silva's triumphant return to the Planalto Palace in Brasilia marks the continuity of the good relations developed by Brazil and Russia since the 2000s, both bilaterally and multilaterally within the BRICS.

The initiative to create a club of countries for peace in the context of the war in Ukraine, which aims to bring the belligerents together around a negotiating table under Brazilian mediation to quickly end the conflict, is flawed due to its lack of attention to the military balance of forces on the ground. De facto, this diplomatic mobilization to put an end to the conflict, despite its pacifist and neutral façade, heavily favors Russia[51] and views the West as guilty of not seeking peace because it

49 @nayibbukele, "En Ucrania, pro rusos hacen elecciones mientras fascistas les disparan. Queda claro quienes son los defensores de la democracia.," May 11, 2014, https://twitter.com/nayibbukele/status/465700978394529792?lang=fr.

50 "Rossiia i Boliviia nachali raschety v natsvaliutakh," *RIA Novosti*, February 14, 2023, https://ria.ru/20230214/natsvalyuty-1851951570.html.

51 "Moscow Analyzes Brazil's Peace Initiatives on Ukraine—Foreign Ministry," *TASS*, February 23, 2023, https://tass.com/russias-foreign-policy/1580875.

has given arms to Ukraine. This mobilization seems to pursue two main objectives: not to tarnish da Silva's public image as a paladin of democracy, conferred by Western countries due to his victory over Jair Bolsonaro; and to find an optimal diplomatic niche that allows Brazil to keep one foot in the world of Western multilateralism and the other in that of the BRICS, no member of which has condemned the Russian aggression.

The Brazilian president revealed his position in a response to German Chancellor Olaf Scholz when the latter asked him to support the Ukrainian war effort by sending ammunition. Da Silva responded: "I think the reason for the war between Russia and Ukraine also needs to be clearer. Is it because of NATO? Is it because of territorial claims? Is it because of entry into Europe? The world has little information about that. […] Brazil has no interest in handing over munitions that can be used in the war between Ukraine and Russia. We are a country committed to peace."[52] The Brazilian initiative has involved other Latin American left-wing leaders, among them the Argentinian Fernandez and new Colombian president Gustavo Petro, as well as such Europeans as the former leader of the British Labour Party, Jeremy Corbin; the leader of La France Insoumise, Jean-Luc Mélenchon; and the general secretary of Spain's Podemos, Ione Bellarra.[53] That being said, the extreme right-wing lines increasingly present in Latin American politics could constitute the new avatar of this illiberal agreement with Russia.

52 "Brazil's Lula Snubs Olaf Scholz with Ukraine War Remarks," *Politico*, January 31, 2023, https://www.politico.eu/article/ukraine-war-luiz-inacio-lula-da-silva-mercosur-olaf-scholz/.

53 "Guerre en Ukraine: 'Nous appelons à redoubler d'efforts diplomatiques pour établir un cessez-le-feu,'" *Le Monde*, February 10, 2023, https://www.lemonde.fr/idees/article/2023/02/10/guerre-en-ukraine-nous-appelons-a-redoubler-d-efforts-diplomatiques-pour-etablir-un-cessez-le-feu_6161361_3232.html.

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Illiberal Narratives in Latin America: Russian and Allied Media as Vehicles of Autocratic Cooperation

ARMANDO CHAGUACEDA, JOHANNA CILANO PELAEZ, AND MARIA ISABEL PUERTA

Abstract

Whether being discussed in the media, by intellectuals, or among political elites, illiberal narratives enjoy a significant presence and impact in Russia and Latin America alike. As a result of the conflict between Russia and the West over the invasion of Ukraine, the role of Russian media as a source of disinformation for the Latin American population has drawn attention. The presence of these mass media allows the Kremlin to question the democratic model in place in most of Latin America and defend the official positions of the Russian government while aligning itself with illiberal forces on the regional political spectrum—especially on the radical left.

Keywords: Illiberal narratives, Russia, Latin America, disinformation

Armando Chaguaceda
Political scientist and Historian. Doctor in History and Regional Studies. Researcher in Government and Political Analysis AC and professor at El Colegio de Veracruz (Mexico).
xarchano@gmail.com

Johanna Cilano Pelaez
Political scientist and jurist. Doctor in History and Regional Studies (UV). Professor ECSG Political Science and International Relations School, Tecnológico de Monterrey, Puebla Campus (Mexico) and member of the Red de Politólogas.
jocipe2003@gmail.com

Maria Isabel Puerta
Political scientist. Doctor in Social Sciences, with a concentration in Cultural Studies (UC). Political Science Adjunct Professor - Valencia College, and member of the Red de Politólogas.
mpuerta69@gmail.com

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We are living through the dark hours of a dispute that opposes two different logics of power organization: democracy and autocracy—although we should acknowledge the nuances that hybrid or competitive authoritarian regimes add to the debate.[1] Democratic regimes feature the distribution of power among institutions, are open to competition between different groups and agendas, and, in their contemporary version, incorporate (without being reduced to) the constitutive elements of liberal ideology. By contrast, autocratic regimes are characterized by the concentration of power with an individual or elite that monopolizes the government and dominates subordinates; they challenge the ideological and axiological,[2] as well as the design and functioning of their institutions.[3] Thus, we have two political polarities on which various ideological and cultural positions intersect, as well as complex regimes with intertwined practices associated with democracy with specific authoritarian traits.

There is an ongoing debate between democracy and autocracy. In this context, global autocracies (China and Russia) are penetrating different regions of the world with their illiberal ideologies and disinformation agendas, seeking to erode democracy. In Latin America, a deeply rooted confluence[4] of ideas, values, and practical agendas opposed to liberal democracy is gaining strength. The region is suffering from a growing wave of governments from the radical left (Maduro, Ortega, Díaz Canel) and from the right (Bolsonaro, Bukele) that have clear authoritarian and illiberal features.

The consolidation of the illiberal axis, which is part of the identity of the anti-Western movement, requires a broad dissemination apparatus. This, as González and Chaguaceda point out, implies not only diplomatic initiative (soft power), but also the activation of all the necessary propaganda mechanisms.[5] The goal is not to defeat the adversary's narrative, but rather to cause confusion and sow doubt that democracy is the optimal form of political organization,[6] thereby challenging the United States' leadership in the region.[7]

To that end, autocratic ruling elites deploy a realpolitik strategy that seeks to maximize national security as they understand it. The means they employ are not limited to tangible resources—whether financial, military, or technological. Rather, the political warfare approach, which supports autocratic regimes' projection of *sharp power*,[8] involves constructing and disseminating ideas, symbols, and messages that can influence perceptions and behaviors. This is especially impactful in open societies, where the free flow of ideas and information can shape public opinion, which in turn has the potential to determine—and modify—the attitudes and objectives of the target government. This article aims to analyze the discursive and ideological synergies between Russian and Venezuelan media as propaganda and disinformation mechanisms in a framework of autocratic cooperation.

1 We thank the Government and Political Analysis (GAPAC) research team and to political scientist Carlos Torrealba y Daniel Calderón for their support, information, and observations in preparing this work, where we develop an approach initiated in previous works.

2 Stephen Holmes, "The Antiliberal Idea," in *The Routledge Handbook of Iliberalism*, ed. András Sajo, Renáta Uitz, and Stephen Holmes (New York: Routledge, 2022).

3 Nenad Dimitrijevic, "Illiberal Regime Types," in *The Routledge Handbook of Iliberalism*, ed. András Sajo, Renáta Uitz, and Stephen Holmes (New York: Routledge, 2022).

4 Roberto Gargarella, "Latin America Breathing: Liberalism and Illiberalism, Once and Again," in *The Routledge Handbook of Iliberalism*, ed. András Sajo, Renáta Uitz, and Stephen Holmes (New York: Routledge, 2022).

5 Claudia González Marrero and Armando Chaguaceda, "El Poder de Rusia en Latinoamérica," *Diálogo Político*, February 4, 2022, https://dialogopolitico.org/documentos/dp-enfoque/dpenfoque-rusia-en-latinoamerica/.

6 Brian Fonseca, "Russian Deceptive Propaganda Growing Fast in Latin America," *Global Americans*, August 7, 2018, https://theglobalamericans.org/2018/08/russian-deceptive-propaganda-growing-fast-in-latin-america/.

7 Mira Milosevich-Juaristi, "Rusia en América Latina: Repercusiones Para España," Real Instituto Elcano, March 28, 2019, https://www.realinstitutoelcano.org/documento-de-trabajo/rusia-en-america-latina-repercusiones-para-espana/, p. 6.

8 Christopher Walker and Jessica Ludwig, "The Meaning of Sharp Power. How Authoritarian States Project Influence," *Foreign Affairs* (November 2017), https://www.foreignaffairs.com/articles/china/2017-11-16/meaning-sharp-power.

Understanding the Context, Understanding the Problem

Latin America is a melting pot of identities, processes, and socioeconomic and political structures. Four decades after democratic transitions began, the region has witnessed progress, stagnation, and—more recently—setbacks.[9] Even though, formally speaking, the region's states subscribe to a majoritarian framework of democratic order and the validity of the rule of law, the region is in fact a kaleidoscope of regime types and state capacities.[10]

In countries such as Argentina, Costa Rica, Chile, and Uruguay, we find highly democratic regimes combined with adequate levels of state capacity and openness to civic participation, advocacy, and mobilization. Brazil is a nation where a democratic political system—with high fragmentation and a strong balance of power—coexisted with a right-wing populist government, with variable levels of state capacity and prevalence, coinciding with a broad civic space and composed of numerous civil society actors. Mexico represents a case of a populist leftist government where the moderate openness of the political regime is combined with variable levels of state capacity and growing but still limited social mobilization. Meanwhile, the rest of the countries in Central America, the Caribbean, and the Andean zone have fragile democracies featuring institutions with low capacity to deal with emergency health situations, as well as formally open civic spaces, but with systematic and variable violations of civil rights. The autocratic alliance of Cuba, Nicaragua, and Venezuela shelters autocratic regimes with varying levels of state capacity (high in repression, low in provision) and limited social mobilization within a repressive environment of civic space rights. Haiti, a failed state, has almost no state capacity, coupled with moderate levels of openness and social mobilization.[11]

While during the so-called "shift to the left" (1998-2018) the region experienced an increase in public spending and an improvement in the living conditions of millions of people across several countries, the subsequent end of the commodities boom—which resulted in economic recession and the adoption, by various governments, of adjustment and indebtedness policies—contributed to the current situation of economic stagnation and social anger. This discontent fueled the deterioration of democratic institutional frameworks that do not effectively channel citizens' demands and seem to be at the origin of the popular mobilizations that took place in various countries in 2019. The COVID-19 pandemic exacerbated the processes of impoverishment and autocratization, as well as compounding the state's inability to respond effectively and legitimately to demands and uphold citizens' rights.[12] All of this has created fertile ground for the spread of illiberal ideologies.

Nevertheless, this has been driven not only by diminishing results for the economic, social, and political structures, but also by mutations in the attitudes of specific sectors of the citizenry and regional elites. Political support for democracy has declined systematically in Latin America over the last decade. An authoritarian political culture, inherited from the colonial period,[13] survives, revealing long-term disaffection from the democratic and liberal models beyond the confluence of both models. If we analyze the evolution of citizens' dissatisfaction with democracy, we find that political support for democracy depends on the (procedural and performance) reality of these regimes in unequal Latin American societies.

9 Steven Levitsky and Daniel Ziblatt, *How Democracies Die* (London: Penguin Books, 2019); Yanina Welp, *The Will of the People: Populism and Citizen Participation in Latin America* (Berlin: De Gruyter, 2022).

10 Sebastian L. Mazzuca and Gerardo L. Munck, *A Middle-Quality Institutional Trap: Democracy and State Capacity in Latin America* (Cambridge: Cambridge University Press, 2020).

11 Varieties of Democracy, "Autocratization Changing Nature?" V-Dem Institute, March 2022, https://www.v-dem.net/documents/19/dr_2022_ipyOpLP.pdf.

12 Maria Isabel Puerta Riera, "Democratic Backsliding and Autocratization," GAPAC, February 15, 2021, https://www.gobiernoyanalisispolitico.org/post/democratic-backsliding-and-autocratization.

13 Gargarella, "Latin America Breathing."

Public opinion polls[14] reveal not only fair criticism of liberal deficits, but also a specific commitment to non-democratic modes of governance.[15] The regional intelligentsia is selectively blind when it comes to vernacular authoritarianism: the three countries where the exercise of all civic rights is most limited—Cuba, Nicaragua, and Venezuela—do not receive as much attention from these intellectual circles. This reveals the weight, within this influential segment of the middle classes, of radical leftist positions mostly critical of the liberal order.[16] The underlying problem is a philotyrannical bias that was non-existent thirty years ago, when most of the collapsing (right-wing) dictatorships received unequivocal condemnation from the enlightened (academic and intellectual) circles that embraced democratic transitions.

Due to its impact on public life, the most politically relevant contradiction within the current Latin American academe is the one that takes sides with two opposing ways of conceiving power, based respectively on the recognition or denial of popular sovereignty and human rights: democracy versus autocracy. In both their conservative[17] and radical left[18] forms, autocratic options (as well as hybrid regimes and populist governments) share a liberal substratum. Thus, the distinctions between left and right, defined by their respective value systems and public policy priorities, can be processed in a conditional but reasonable way in the institutions and processes of our imperfect democracies.

The Russian Presence in Latin America

In this context, the links between Russia and Latin America, and especially Venezuela, have strengthened since the United States and other Western countries imposed sanctions on Russia in 2014 following the latter's annexation of Crimea and the confrontation between the Ukrainian military forces and pro-Russian separatists in the eastern part of the country (before the 2022 full-scale Russian invasion). Early in the government of Hugo Chávez, Venezuela became a reliable partner of Vladimir Putin. What was in principle a transactional relationship became a strategic alliance in the Russian fight against the United States.[19] One area where the relationship has been not only consistent, but also broad due to its extent in the region has been the Russian supply of military weapons and technical assistance to Latin American countries, including Venezuela and Brazil. This has contributed substantially to the survival of the crisis-stricken Chavista regime since the oil price fell in 2015.[20]

Over time, Russian-Venezuelan relations have not merely diversified, but also—as we can see from an analysis of the different spheres where illiberal synergies operate—deepened, causing the United States to consider it necessary to approach Venezuela to counteract the consequences of the oil sanctions imposed on Russia after it invaded Ukraine in February 2022. In this sense, and given the Biden administration's criticism of oil sanctions imposed by the Trump administration, it can also be seen as an attempt to reduce the capacity

14 Richard Wike, Alexandra Castillo, and Laura Silver, "Many across the Globe Are Dissatisfied with How Democracy Is Working," Pew Research Center's Global Attitudes Project, July 23, 2020, https://www.pewresearch.org/global/2019/04/29/many-across-the-globe-are-dissatisfied-with-how-democracy-is-working/.

15 "Global Democracy Weakens in 2022," International IDEA, accessed December 4, 2022, https://www.idea.int/news-media/news/global-democracy-weakens-2022.

16 Michael C. Behrent, "Left and New Left Critiques of Liberalism," in *The Routledge Handbook of Iliberalism*, ed. András Sajo, Renáta Uitz, and Stephen Holmes (New York: Routledge, 2022).

17 Andy Hamilton, "Conservatism as Illiberalism," in *The Routledge Handbook of Iliberalism*, ed. András Sajo, Renáta Uitz, and Stephen Holmes (New York: Routledge, 2022).

18 Behrent, "Left and New Left Critiques of Liberalism."

19 Joshua Chang, "Arms Sales, Mercenaries, and Strategic Bombers: Moscow's Military Footprint in Venezuela," *Georgetown Security Studies Review*, November 24, 2019, https://georgetownsecuritystudiesreview.org/2019/11/26/arms-sales-mercenaries-and-strategic-bombers-moscows-military-footprint-in-venezuela/.

20 Zachery Abunemeh and Vasabjit Banerjee, "How External Actors Have Worsened Venezuela's Long Crisis," *Georgetown Journal of International Affairs*, November 12, 2019, https://gjia.georgetown.edu/2019/06/24/how-external-actors-have-worsened/.

for Russian influence in Latin America to provoke a regional geopolitical readjustment, considering that military ties are not the only strategic asset.

The information universe is undoubtedly one of the spaces where Russian influence has had decisive consequences for the region. The penetration of the information environment has led to a display of Russian *sharp power* in coordination with allied governments and regional anti-Western organizations, academic and intellectual networks affiliated with the anti-imperialist axis as an expression of the intercontinental ideological apparatus. The anti-West axis is conceived as a multipolar alternative to the unipolar Western order, and it is oriented toward the goal of consolidating a new geopolitical hegemony.

In light of these objectives, the Russian State has leveraged the internet and new global media (*Russia Today*, *Sputnik*, and others) to exert its *sharp power* over Western nations, especially disaffected groups and those on the political extremes (both the right and the left). At the same time, it cooperates with autocratic allies to promote agendas and narratives in line with the common interests of these autocrats and the Kremlin.[21] In Latin America, where resentment of the United States and radical ideas hold sway across the ideological spectrum, the Russian state has called the post-Cold War democratic consensus into question using a network of its own media and allies, which we analyze below.

The Russian Media and Its Allies

As an investigation by the Atlantic Council's Digital Forensic Research Lab (DFRLab)[22] has pointed out, winning over Latin American audiences—both from Bolivarian governments and from essential countries such as Mexico, Argentina, and Colombia—is among Russia's strategic goals in the media sphere. Indeed, Mexico is among the countries with the highest rates of audience growth, according to an Ipsos study[23] commissioned by RT. According to the DFRLab, it is significant that 50% of the traffic on the RT en Español website has been registered in the abovementioned countries; it reflects the Russian media's influence in a market where other allies, such as Telesur, compete, but where CNN, Voice of America, and the BBC, among other international media outlets, do not register the same penetration. Russian media outlets have become a familiar source of information for the Latin American population.[24] Their sensationalism allows them to capture the attention of broad masses and, like the great Western news networks, conduct mass communication in real time.

It is vital to consider the impact of market segmentation by medium, as Latin American audiences are distributed across different social networks: Twitter, Facebook, Instagram, and YouTube. Additionally, they have the alternative channels of Telegram and WhatsApp as well as their proper web pages. This gives us an idea of the breadth of the influence strategy of the Russian official media network in those countries subject to constant informational influence directed from the Kremlin.

Two characteristics contribute to the financial opacity of the Russian media: the absence of budgets or fiscal years in public view and the overlaps in its vast media network, with those in leadership distributed among the different information apparatuses. This is apparent in the media structure financed by the Kremlin through the Rossiya Segodnya parent company, which shares leadership with RT, and where Sputnik is also found, among other channels and news services.

21 Rachel Vanderhill, *Promoting Authoritarianism Abroad* (Boulder, CO: Lynne Rienner).

22 DFRLAB, "A Glimpse into *RT*'s Latin American Audience," Medium, August 7, 2020, https://medium.com/dfrlab/a-glimpse-into-rts-latin-american-audience-487d52bed507.

23 "RT Weekly TV Audience Grows by More than a Third over 2 years; Now 100MN—IPSOS," *RT*, April 3, 2018, https://www.rt.com/about-us/press-releases/ipsos-market-research-rt/.

24 Vladimir Rouvinski, "The Misleading Truths of Russia's Strategic Communication in Latin America," *Global Security Review* 2 (2022).

Russia Today

Russian media penetration in Latin America can be seen as an efficient tool for positioning the Kremlin's narrative, given the experience of its leading media outlet, *Russia Today* (RT).

RT is an international news channel financed by the Russian Federation. It operates from Moscow and defines itself as an autonomous non-profit organization[25] that was the first online media in the world, ahead of more traditional media outlets such as the BBC, Voice of America, and CNN. In an era when information and disinformation compete in the same spaces and under equal conditions, this self-definition is not a minor fact. According to the United States Department of State,[26] Russian government-funded media outlets disseminate (dis)information via a propaganda ecosystem comprised of five pillars: 1) official communications; 2) global positioning of State-financed messaging; 3) cultivation of intermediate sources; 4) use of social networks as weapons; and 5) cyber disinformation.

The channel RT en Español was created to disseminate news to the Spanish-speaking market. The subsidiary began operations in 2009, reaching a broad audience in Latin America. One of the goals of this outlet is to offer another interpretation of the facts. Even though the channel claims to focus on highlighting less-covered news, it is in fact a reframing operation. On its website, the channel lists the names of its team of thirty journalists and correspondents,[27] among which those sent to such countries as Cuba, Colombia, Mexico, the US, Venezuela, and Argentina stand out.

The network's digital penetration and the multiplicity of platforms on which it operates have contributed to its rise. According to its own figures, in 2020, RT's videos received 10 billion views on YouTube. However, despite its claims to take an impartial position, the fact that it is officially financed by the Russian regime leaves little doubt as to the nature of the channel's coverage. As reported by *Meduza*,[28] RT tops the list of media funded by the federal government, with a budget of $451,968,748 for 2022. In the case of RT America,[29] the network's subsidiary in the United States, the amount of Russian government funding is known ($141,753,983 since 2016)[30] due to the demands of the country's Department of Justice,[31] whereas the Latin American states have less stringent reporting requirements.

Sputnik Mundo

The Sputnik Mundo news agency[32] is the Russian version of an international news agency with correspondents. It works in the most important cities, and, in addition to its presence on multiple platforms, it also has a radio station. The agency operates from Moscow, with correspondents in places as diverse as Cairo, Montevideo, Beijing, and Washington. The agency's goal is to disseminate content on political, economic, and social issues facing Russia and the world. The agency was created in 2014 from the merger of the Russian

25 See RT, "About Us," last accessed April 11, 2023, https://www.rt.com/about-us/contact-info/.

26 Global Engagement Center, "Kremlin-Funded Media: RT and Sputnik's Role in Russia's Disinformation and Propaganda Ecosystem," US Department of State, January 20, 2022, https://www.state.gov/report-rt-and-sputniks-role-in-russias-disinformation-and-propaganda-ecosystem/.

27 "Equipo de RT," *RT Actualidad*, accessed April 11, 2023, https://actualidad.rt.com/acerca/equipo.

28 "RT ostalsia liderom po ob"emam gosfinansirovaniia sredi SMI. V 2022 godu kanal poluchit pochti 29 milliardov rublei," *Meduza*, December 23, 2021, https://meduza.io/news/2021/12/23/rt-ostalsya-liderom-po-ob-emam-gosfinansirovaniya-sredi-smi-v-2022-godu-kanal-poluchit-pochti-29-milliardov-rubley.

29 Elena Postnikova, "Agent of Influence: Should Russia's RT Register as a Foreign Agent?" Atlantic Council, September 2017, https://www.atlanticcouncil.org/wp-content/uploads/2017/09/RT_Foreign_Agent_web_0831.pdf.

30 "Foreign Lobby Watch," Open Secrets, accessed April 11, 2023, https://www.opensecrets.org/fara/registrants.

31 Mike Eckel, "RT America Received More Than $100 Million In Russian Government Funding Since 2017, Filings Show," *RFE/RL*, August 25, 2021, https://www.rferl.org/a/russia-rt-america-funding/31427870.html.

32 "Quienes Somos," Sputnik Mundo, accessed April 11, 2023, https://sputniknews.lat/docs/quienes_somos.html.

Information Agency Novosti (*RIA Novosti*) and the *Voice of Russia* radio station, both part of the media conglomerate operated by the state-owned company *Rossiya Segodnya*.

As with RT, the details of Sputnik Mundo's operating funds are opaque. In the absence of publicly available, reliable information indicating the origin of the budget and organizational structures, it is necessary to resort to indirect and incomplete sources to reconstruct its financial framework. The only site that indicates a budget for Sputnik Mundo is Wikipedia. It links it to the parent organization Rossiya Segodnya,[33] which—according to the aforementioned State Department report[34]—is partially responsible for its financing but does not make it public.

Ruptly

Another outlet within the ecosystem of Russian state-funded media is Ruptly, a video news agency described as a sister to RT. It is presented in various formats and platforms (television, digital website, and social networks). It was founded in 2013 by ANO TV Novosti, the Russian state television agency,[35] to operate independently and commercially, offering paid subscription services to individuals and businesses.

According to RT, the Ruptly agency, based in Germany, launched its Spanish version in 2019.[36] It has 22 offices worldwide and makes its content available to television networks and digital media. It offers broadcasting services, live positions, and multi-camera studios in cities such as London, Paris, New York, and Washington. Its mission is to "becoming a competitive alternative to the status quo news agencies by delivering clients exclusive high impact and viral video, a varied selection of daily live feeds, and a full range of broadcast services and a customised personal service."[37] Its half-brothers are RTD, RT, RT America, RT en Español, Rusiya Al-Yaum, and RT UK.

Telesur

From the other direction, we must address the regional-based illiberal-driven media that act as an autocratic Latin American counterpart to the Russian media ecosystem. Here, the television network Telesur [38] stands out. The product of an initiative led by Venezuela, it was founded in 2005[39] during the presidency of Hugo Chávez, in alliance with the governments of Cuba, Argentina, Uruguay, and Brazil as founding members (later joined by Bolivia). It is a 24-hour news channel headquartered in Caracas that seeks to introduce diversity to the ecosystem of cable news channels by providing a Latin American vision of the most relevant news.

However, one of its founders, Aram Aharonian, has pointed out that Telesur has failed to become more than a Venezuelan channel.[40] Although there is no information available on its number of existing collaborators and correspondents, in a video celebrating its tenth

33 "The History of Rossiya Segodnya International Media Group Stretches back 80 Years," Rossiya Segodnya, accessed April 11, 2023, https://rossiyasegodnya.com/history/.

34 Global Engagement Center, "Kremlin-Funded Media."

35 "About Ruptly," Ruptly, accessed April 11, 2023, https://www.ruptly.tv/en/about-ruptly.

36 "Ruptly lanza su nueva plataforma en español," Sputnik Mundo, July 24, 2019, https://sputniknews.lat/20190724/ruptly-lanza-su-nueva-plataforma-en-espanol-1088138688.html.

37 "About Ruptly," Ruptly, accessed April 11, 2023, https://www.ruptly.tv/en/about-ruptly.

38 "Historia," telesurtv.net, accessed April 11, 2023, https://www.telesurtv.net/pages/sobrenosotros.html.

39 Indira A. R. Lakshmana, "Channeling His Energies: Venezuelans Riveted by President's TV Show," *Boston.com*, July 27, 2005, http://archive.boston.com/news/world/latinamerica/articles/2005/07/27/channeling_his_energies/.

40 "Aram Aharonian: 'Telesur no logró ser latinoamericano, sigue siendo venezolano,'" *La Gaceta*, July 27, 2014, http://www.lagaceta.com.ar/nota/601045/television/aram-aharonian-telesur-no-logro-ser-latinoamericano-sigue-siendo-venezolano.html.

anniversary[41] in 2015, the channel highlighted the presence of collaborators in 32 countries in Latin America, Europe, and Africa, including emphasizing the importance of presence in and collaboration with Russia.

Since its inception, Telesur has aspired to compete with CNN or the BBC, seeking to provide balance in the media against what they have characterized as an imperialist monopoly. However, the formation of the network reflects an ideological bias that replicates the North/South or Capitalism/Socialism debate, in which a news approach free of ideological antagonism is not identified. The channel is conceived as a vehicle for promoting a narrative allied to the dominant political axis in the coalition of countries that support it. This was clearly seen with the withdrawal of Argentina and Uruguay as sponsors once Mauricio Macri and Luis Lacalle Pou won their respective presidential elections.

Telesur depends financially on the Venezuelan government, which has always been the majority shareholder. At first, Venezuela had a 51% stake, with the remaining 49% covered by contributions from the other member countries: Argentina (20%); Cuba (14%); Uruguay (10%), and later Bolivia (5%). In its beginnings, the start-up investment was in the order of $12.5 million USD, according to official sources. Subsequently, Argentina (2016)[42], Ecuador (2018),[43] and Uruguay (2020)[44] stopped contributing to its financing. Venezuela's contributions have since come to represent 70% of the network's budget.

We have not been able to find an official record of financial balances to verify subsequent movements in the composition of Telesur's shareholders. The only two references to the annual budget correspond to the ministerial budget of the entity to which the outlet is ascribed, the Venezuelan Ministry for Information and Communication, for 5,200,000,000 bolivares in 2016, about $7.8 million USD approximately.

Correo del Orinoco

Focused on the Venezuelan national public, *Correo del Orinoco* is a Venezuelan newspaper founded in 2009. It forms part of the public (state) media system, which is made up of 13 television channels, 5 radio stations, 9 newspapers, and a news agency. With an estimated print run of 50,000 copies and a website (www.correodelorinoco.gob.ve), *Correo del Orinoco* began as a project of President Hugo Chávez intended to counteract traditional media (*El Nacional*, *El Universal*, *Últimas Noticias*) with editorial lines critical of the government, and has since captured much of national news consumption.

Below, we present some data on the origin and outreach of these Russian and Venezuelan media outlets, which may help us to assess their potential impact.

41 "teleSUR incrementa su red de corresponsales en el mundo," Daily Motion video, 2:29, posted by "teleSUR tv," 2015, accessed April 11, 2023, https://www.dailymotion.com/video/x2z5m7k.

42 Carlos E. Cué, "Argentina sale de Telesur, la cadena latinoamericana creada por Chávez," *El País*, March 28, 2016, https://elpais.com/internacional/2016/03/28/argentina/1459194299_288241.html.

43 "Ecuador deja de financiar a cadena venezolana Telesur," *Associated Press,* March 19, 2018, https://www.vozdeamerica.com/a/ecuador-suspende-financiamiento-telesur-cadena-venezolana-tv/4305928.html.

44 Nicolas Chamorro, "Cancillería anunció que Uruguay deja de integrar Telesur y Banco del Sur," *Radio Monte Carlo*, March 13, 2020, https://www.radiomontecarlo.com.uy/articulos/articulos_masinfo.php?secc=articulos&id=63922&path=0.2308.

Table 1. Number of followers on social networks of selected media

Year Established	Medium/ Foundation	Headquarters	Followers on Twitter	Followers on Facebook	Followers on YouTube
2009	RT in Spanish	Moscow, Russia	3,500,000	18,074,210	5,800,000
2012	Ruptly	Berlin Germany	117,700	-	2,200,000
2014	Sputnik Mundo	Moscow, Russia	157,800	629,467	145,100
2005	Telesur	Caracas, Venezuela	2,000,000	2,128,441	1,600,000
2009	Correo del Orinoco	Caracas Venezuela	6433	296,549	2030

Source: HypeAuditor, 2022.

For these media outlets, ratings and public penetration are less important than getting their content picked up by other, more reliable platforms. As the U.S. State Department puts it, the Russian disinformation media ecosystem is an information-laundering machine.[45] This laundering aims to legitimize the Russian media's manipulations and thus fuel mistrust of democratic institutions.

Russian influence in the regional communication apparatus is another expression of the political integration between the Vladimir Putin regime and its allies in Latin America. The growth strategy of the informative bureaucratic apparatus is expressed in two aspects:

> 1. *Operational structure:* The incursion of Russian media in Spanish—such as RT, Sputnik Mundo, its services such as Ruptly, and the extinct Voice of Russia in Spanish, have increased the effort to penetrate and influence regional public opinion.
>
> These media outlets are (at least in theory) dedicated to promoting the objectives of the multipolar movement, seeking not only the positioning of an alternative regional leadership, but also—and more fundamentally—to subvert the Western democratic order by sowing distrust in democracy as a democratic model[46] and criticizing the U.S. government and its allies in the West as an example of democratic decline through disqualification.
>
> 2. *Disinformation apparatus:* These media seek not only to generate opinion frames, but also to subvert the political order through disinformation. This dual mission translates into interference and obstacles to the coordination of support in the strategic issues of the region.[47]

45 Global Engagement Center, "RT and Sputnik's Role in Russia's Disinformation and Propaganda Ecosystem," US Department of State, January 20, 2022, https://www.state.gov/wp-content/uploads/2022/01/Kremlin-Funded-Media_January_update-19.pdf.

46 Fonseca, "Russian Deceptive Propaganda Growing Fast in Latin America;" González Marrero and Chaguaceda, "El Poder de Rusia en Latinoamérica."

47 Ryan C. Berg, "What Does Russia's War in Ukraine Mean for Latin America and the Caribbean?" Center for Strategic and International Studies, March 17, 2022, https://www.csis.org/analysis/what-does-russias-war-ukraine-mean-latin-america-and-caribbean.

> In 2018, Global Americans monitored four media outlets during the second half of the year, two Russian (*RT* and *Sputnik*) and two Chinese (*Xinhua* and *People's Daily Online*). They found that "disinformation efforts coming from Russian state media are more aggressive than those from China."[48]

As Fonseca points out, the purpose of the Russian outlets' disinformation strategy is to promote mistrust in the media and democratic institutions to reduce the space of influence of Western democracies.[49] The Russian regime has been engaged in this effort for years: as early as 2013, Latin America represented the second-greatest area of RT influence after Islamic countries.[50]

The Russia-led regional system of communicational influence represents an additional field of confrontation between Russia and the West that requires more attention because it is much more effective at generating distrust in democracy, especially in Western democracy, without a counter message. This strategy has proven to be successful, posing a real challenge for Latin America's democratic forces precisely when liberal democracy is going through its worst moment.

Media-Political Confluences

To explain how Russian influence is projected in Latin America, it is necessary to identify in the relevant mass media synergies between the Kremlin and its autocratic allies in the region on such issues as democracy, human rights, and international relations. Elements such as sovereignty, loyalty, and resistance stand out. This is in line with the illiberal sovereigntist emphasis, which delegates the incarnation of the nation to the State—and its highest authorities—above any other consideration.[51]

However, it is also important to consider the complexities of a region that has sought change through radical political alternatives (from opposing ideologies) that are not very different from the current illiberal experiences undermining Western democracies. The alliances that China and Russia have built throughout Latin America share the common denominator of being with regimes that have substantially diminished democratic institutions in societies that have a long history of struggling to overcome authoritarianism. The fertile ground China and Russia have found in weakened democracies offers an opportunity to expand the illiberal axis they represent.[52]

Investigating this influence is a complex issue. After all, the behavior of autocratic regimes is characterized by opacity, making it difficult to identify their projects' financing, objectives, and political links. Hence, the sources of information used to collect the data in this text were diverse, fragmented, and compiled after extensive efforts by the authors and the team that supported us. Among Russian and Venezuelan

48 Alessia Noboa and Sofia Mateu-Gelabert, "Tácticas de Desinformación de Medios Estatales de Rusia y China," *Global Americans*, July 10, 2020, https://theglobalamericans.org/2019/06/tacticas-de-desinformacion-de-medios-estatales-de-rusia-y-china/#.

49 Fonseca, "Russian Deceptive Propaganda Growing Fast in Latin America."

50 Josep Maria de Sagarra Ángel and Chimo Soler Herreros, "El español en la Federación de Rusia: factor determinante en las relaciones con los países hispanohablantes," *Iberoamerica* 2 (2014): 93–118, 106.

51 Marlene Laruelle, "Illiberalism: A Conceptual Introduction," *East European Politics* 38, no. 2 (2022): 303-327, https://doi.org/10.1080/21599165.2022.2037079; Andrei Kolesnikov, "Scientific Putinism: Shaping Official Ideology in Russia," Carnegie Endowment for International Peace, November 21, 2022, https://carnegieendowment.org/politika/88451.

52 Thomas J. Main, *The Rise of Illiberalism*. Washington, DC: Brookings Institution Press; Esteban Ponce de León and Daniel Suárez Pérez, "Digital Autocracy: Maduro's Control of the Venezuelan Information Environment," Atlantic Council, April 7, 2021, https://www.atlanticcouncil.org/in-depth-research-reports/report/digital-autocracy/; Chaguaceda Noriega, A., & Boersner Herrera, A. (2022, August 18). *Russia in Latin America: The illiberal confluence: LSE Latin America and Caribbean*. LSE Latin America and Caribbean blog. Retrieved December 4, 2022, from https://blogs.lse.ac.uk/latamcaribbean/2022/07/28/russia-in-latin-america-the-illiberal-confluence/.

media and institutions, opacity is sometimes the norm; in other cases, it is possible to count—albeit with some reservations—on data on their resources and objectives.

To support the thesis of this article, with the assistance of the GAPAC team and the experts Carlos Torrealba and Daniel Calderón, we identified the illiberal narratives present in the news coverage and editorials of four media outlets (*Russia Today*, *Sputnik News*, *Telesur* and *Correo del Orinoco*) in 2018-2020 using structural discourse and frame analysis, following the combination of traditional content analysis with frame structures described by Johnston.[53] The review focused on four terms, two that allude to more general frameworks and processes (humanitarian crisis, Venezuelan conflict) and two that relate to more specific political phenomena (democracy in Venezuela, human rights in Venezuela). Here, we discuss in brief the results of this analysis.

It may be possible to understand the media-political confluence of the Russian narrative in Latin America by taking its interaction with the Venezuelan authoritarian regime as a case study. Along with economic, military, diplomatic, and intelligence cooperation, Russia (a global autocratic power) and Venezuela (a Latin American autocratic regime) establish synergies concerning the defense and projection of their political worldview. Venezuela is positioned as the Russian gateway to the Latin American market and regional space economically, academically, culturally, and media-wise. For its part, Russia offers a diplomatic counterweight to the United States, against other democratic allies, and against the questioning and disapproval of the international community. The administration led first by Hugo Chávez (1999-2013) and then by Nicolás Maduro (2013-present) has found an essential ally in Vladimir Putin. A sign of this has been the exchange between media and political spaces and a mutual "solidarity."

First, the Russian media frequently call for loyalty to the Bolivarian revolution in Venezuela and the exaltation of sovereignty in the face of "attacks" that seek to harm it. Likewise, the resistance of the autocratic regimes in the region to external threats is evident. Examples of the above are the following fragments of headlines: "loyalty, support, and commitment to the population and to the Bolivarian National Armed Forces" (*Telesur*); "how the Cuban government resisted pressure from the United States" and "self-determination of the peoples" (*RT*); and "defend the right to sovereignty" (*Correo del Orinoco*).

Second, the Russian media highlight the cooperation between autocratic actors (governments and the media), who share an illiberal vision of the national and global order.[54] For the Kremlin, it is essential to show that Venezuela is not alone in terms of international alliances. Along these lines, it is not surprising that the Russia-Venezuela alliance is a prominent theme of media content: "Russia supports the legitimate Government of Venezuela" (*RT*) and "Caracas is a strategic partner of Russia" (*Telesur*). Calls for dialogue, peace, and order—"peace and understanding among Venezuelans" (*RT*) and "peaceful solution to the crisis" (*Telesur*) —also appear repeatedly in these media. This is reminiscent of how the Putin and Maduro regimes have used calls for dialogue (in Venezuela, Ukraine, Syria, etc.) to defuse resistance to their political agendas and achieve advantages within the framework of said processes.

Meanwhile, when addressing whether there is democracy in Venezuela, the Russian media are adamant that it does exist. This perspective aims to provide legitimacy to the Maduro government: "we are the country with the most vigorous democracy in Latin America" (*Correo del Orinoco*), "eight Russian politicians participated in international oversight of the parliamentary elections" (*Telesur*), and "Venezuela

53 Hank Johnston, "Verification and Proof in Frame and Discourse Analysis," in *Methods of Social Movement Research* (Minneapolis, MN: University of Minnesota Press, 2002), 62–91.

54 Kurt Weyland, "Autocratic Diffusion and Cooperation: The Impact of Interests vs. Ideology," *Democratization* 24, no. 7 (December 2017): 1235-1252, https://doi.org/10.1080/13510347.2017.1307823.

enjoys a vigorous popular democracy" (*Sputnik News*). Here the discussion refers to the ways of conceiving democracy by populist governments and autocratic regimes, united in rejecting the institutions, mechanisms, values and principles of a polyarchy. At this point, the media-political cooperation between both regimes and autocratic narratives acquires another level of visibility, showing how shared illiberal goals and perspectives make them collaborate and share information and statements, without too much mediation.

In these media outlets, *hostile countries* are sanctioned, which is reflected in statements like "initiatives hostile to Venezuela, such as the creation of the Lima Group" (*RT*), "Organization of American States, the Lima Group and countries aligned with Washington's foreign policy" (*Correo del Orinoco*) and "The US uses countries in the region to attack and destabilize institutions and democracy in that nation" (*Sputnik News*). As can be seen, adversaries are those governments or institutions that make up the liberal democratic stronghold in the region and that, in the case of the United States, hold global leadership.

Conclusions

The synergy between global autocracies and local illiberal governments amplifies the reach and presence of Russia and China in Latin America. The enormous human and material resources of the Chinese Communist Party—which include investments, credits, personnel training, and cultural propaganda—serve to leverage the agenda of the political elite of that country in the Latin American region, seducing not only its traditional allies, but also parties, businesspeople, and opinion-makers close to the liberal democratic orbit. Compared to other autocracies, Russia's relatively more advanced and flexible *sharp power* tools have given the country an advantage in Latin America.

Although Russia has less of a direct presence in the Latin American academe than does China (Russian Houses of Culture are hardly comparable to Confucius Institutes), the illiberal ideological affinity concerning the official Russian narrative is significant and influential within public opinion. With the invasion of Ukraine, the Russian media have reinforced their status as a source of disinformation in Latin America. Today, we see "calculated ambiguity" (instead of clear condemnation or defense) on the attitudes of various governments, parties, and segments of the Latin American intelligentsia and population toward Russia's aggression against Ukraine.

Of course, in Latin America there are issues with democracy (history and development) that are not the result of Chinese or Russian influence. Still, the latter take advantage of cultural affinities, institutional similarities, and social sympathies useful for their agendas. The problem on the continent is not just global autocracies: Iran, Cuba, and illiberal networks of the right (libertarian) and the left (Bolivarian) are increasing their influence within Latin American societies and political systems.

This framework explains the convergence between Russia and several Latin American countries, which have experienced parallel processes of autocratization. Personalist illiberal regimes—such as those of Russia, Venezuela, and Nicaragua—have strengthened dialogue, collaboration, and mutual support throughout their political relations. Their practices converge on the progressive elimination of democratic institutions and actors (opposition parties, media, and civil society organizations). In parallel, these governments have ensured a strong state presence in the economy, from clientelism to neo-patrimonial relationships.

The illiberal factor appears to be a soft but highly effective ideology that permeates the discourses of the media, intellectuals, and think tanks close to the Kremlin's objectives. As the renowned expert Victor Mijares has recently pointed out, due both to their value in projecting domestic hegemony and challenging the liberal global order and to their influence on elites and publics affected by Chavismo within

Latin America, these narratives—projected by related media and academies—enjoy considerable presence and impact in the current Venezuelan and regional panorama.[55]

Since the full-scale invasion of Ukraine, the Russian media ecosystem has hit new milestones as a source of disinformation for the Latin American population.[56]

We cannot locate these countries' ideological synergies within the conventional parameters of the Cold War, but perceive possible points of contact and affordances between conservatism and Russian nationalism.[57] These visions echo discourses and agendas shared by political, media, and academic actors in the region, where illiberal, nationalist, and statist approaches, as well as those opposed to the open society and the democratic order, are widely represented.

The advance of Russia's strategic communications in Latin America has met with relatively little opposition.[58] One of the factors behind the success of these networks in Latin America is the public's lack of understanding of the nature of Moscow's interest in the regional informational space. Many Latin Americans perceive media such as *RT* or *Sputnik* as a simple expression of informational pluralism. In the Latin American context, there are few public debates about media pluralism, although perhaps the Ukraine war will somewhat change this situation.

We must reflect on what we do from past experience. Acting effectively in a world of highly fluid, changing, and complex political ideas and practices requires information, sophistication, creativity, and articulation—knowledge of the context and view of the adversary; insight to understand the best approaches to strengthen democratic resilience; creativity to find ways to review the good or bad practices of all sides; and *articulation* to act as a network and with a plan instead of as reactive and fragmented campaigns.

The political center—made up of liberals, social democrats, Christian democrats, new identities, and citizen movements, among other programmatic referents—must be strengthened and developed.

In terms of political media influence, it is necessary to improve the quality of TV programming, combining programs that provide critical analysis of the socioeconomic and political problems of interest to Latin American populations with attractive entertainment programs. It is also vital, given the deterioration of democratic institutions and the influence of disinformation, to promote examples of civic attitudes and intellectual approaches that reinforce democratic values and institutions. This requires creative advice from multidisciplinary teams and permanent monitoring of the people and their demands.

After all, if the accumulated problems facing Latin America's fragile democracies—social cohesion, sustainable and inclusive development, provision of public goods and services, transparency, and the rule of law—are not resolved, these democracies will always be vulnerable to the seduction of internal populism and the influence (soft or strong) of foreign autocracies.

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55 Armando Chaguaceda, "'Soft Ideology' para la hegemonía: los nexos ruso-venezolanos," *HyperMedia* (magazine), October 22, 2021, https://www.hypermediamagazine.com/dosieres-hm/rusia-en-latinoamerica/soft-ideology-nexos-ruso-venezolanos/.

56 Esteban Ponce de León, "RT and Sputnik in Spanish Boosted by Russian Embassy Tweets and Suspicious Accounts," Digital Forensic Research Lab (DFRLab), March 17, 2022, https://medium.com/dfrlab/rt-and-sputnik-in-spanish-boosted-by-russian-embassy-tweets-and-suspicious-accounts-3a24ded7ef57.

57 Laruelle, "Illiberalism: A Conceptual Introduction"; Andrei P. Tsygankov and Pavel A. Tsygankov, "Constructing National Values: The Nationally Distinctive Turn in Russian IR Theory and Foreign Policy," *Foreign Policy Analysis* 17, no. 4 (October 2021).

58 Rouvinski, "The Misleading Truths of Russia's Strategic Communication in Latin America."

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