Coup, Revolution, or Negotiated Regime Change

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29.11.2019 doi: 10.17176/20191129-180853-0

All my Latin American students and not a few radical friends strongly claim that what took place in Bolivia was a coup, focusing on the military role. I hesitate to concede the point, to begin with because the previous extra-constitutional manipulation by President Evo Morales, concerning the most important legal issue under presidential governments, that of term limits, very much prepared his own down-fall.

That choice in the face of the clear text of the Constitution he and his party helped to craft, in the face of a lost popular referendum, relied on a very dubious decision of the Supreme Tribunal of Justice previously established and packed by Morales himself. It should not be any more excused in the case of Morales than partially similar efforts of other Latin American presidents: Peron, Uribe, Fujimori, Menem, Chavez and Maduro. All of them sought to achieve third and fourth terms, implying the populist-personalist deformation of presidential government. Several also packed apex courts to enable their staying in power. Even the court packing scheme of Franklin Roosevelt, along with his running for four (!) terms should be strongly criticized. The 22nd Amendment supported by huge Article V. majorities in the U.S. Congress as well as the states was the culmination of that legitimate and much needed critique.

Nevertheless, the prehistory does not change the fact that there could have been a coup that removed President Morales. For example it was indeed a coup that removed Peron during his second term in office and after many of his own abuses of constitutional government. Thus, before deciding the question in the Bolivian case, we need to try to understand what a coup is, and how it is different from a revolution. Interestingly, the older positivist legal theory defining revolution as the replacement of a government according to a process outside the legal rules of change was not able to make the distinction. We can improve on such a definition by replacing government by regime, and stressing regime change as well as the rupture of political legitimacy in the case of revolutions, but not necessarily coups that could be reduced to mere governmental replacement. But even then, Pinochet's coup in Chile would still amount to a revolution. Most Leftists would undoubtedly answer that claim by adding the idea of progress, based on their value scheme, as a necessary component of revolutions. Analytically however that move cannot be justified, even by the use of the term counter-revolution. As we in Hungary after 1956 were chagrined to learn, what was to us a revolution was a counter-revolution to the Communist faithful.

Even worse, almost all successful revolutions involve the violent taking of power by an armed elite, on behalf of a minority, the Bolshevik revolution being a case in point. There was also a coup by the new model army in the Puritan Revolution, and a Jacobin coup against a freely elected Convention in the French. Thus if my political side continues to insist on a coup in Bolivia, we may have to accept that the other side will see the same as a revolution. After all not only legality was broken, but political legitimacy was shattered by Morales himself. There were furthermore huge anti-government masses assembled on the streets of many cities, and the duplication of sovereignty insisted on by no less a revolutionary than Leon Trotsky was realized at the latest when the police forces joined the demonstrations. Given the social stakes involved however, a right-wing revolution would be a disaster in Bolivia.

I continue to hope however that what occurred was not a revolution, and the brief events described as a coup represented only the unwillingness of the military to fight for a government that has lost its legitimacy. The hope can be disappointed, if the right wing supposedly interim government seeks to perpetuate

itself, and either blocks the road to genuinely free elections, or deforms that process by repression, media manipulation or the ban on candidacies. If any of this happens, the dictatorial propensity of revolutions as well as coups would have been be realized.

But fortunately there is another method of radical change, namely negotiated transition, that has been practiced from Spain in the 1970s, Poland and Hungary in the late 1980s, and South Africa in the 1990s. (On this method see the forthcoming symposium on the Round Tables in *Verfassungsblog* edited by Kriszta Kovács). As Tunisia has shown, even after break in legality and legitimacy the negotiated model can be successfully followed, in effect domesticating the logic of revolution. There are signs that in Bolivia too, the new scenario of change can be followed after a crisis of legitimacy and an ambiguous break in legality. The fact that after initial boycotts of the legislature, the party of the ex-president, the MAS (Movement for Socialism) has agreed to and voted for an electoral scenario, without Morales as a candidate, indicates the positive direction the situation can evolve. But only the direction. Under the repressive measures of the military controlled by the interim government no free elections would be possible. The same is true if the social movements loyal more to Morales personally than to the MAS continue to put several cities under what amounts to a siege.

A negotiated transition is not a matter of a single agreement, but a process of many steps by which mutual trust initially broken can be re-established. This means not only that politicians inside and outside Bolivia should desist from inflammatory statements, including references to a coup or to a revolution, but also the threat to arrest and imprison former leaders as customary in revolutions. Under the circumstances, the need for international supervision of legality, fair elections and openness of the media will be mandatory. The political outcome is far from clear, but it should be the joint product of the main sections of Bolivian society, rather than an imposition of any section, ethnic or political. Paradoxically, it may take international influence if not intervention to restore the democratic constituent power of Bolivians.

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SUGGESTED CITATION

Arato, Andrew: Coup, Revolution, or Negotiated Regime Change, Verfassungsblog, 29.11.2019, doi: 10.17176/20191129-180853-0.

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Langzeitarchiviert bei IntRechtDok unter: doi.org/10.17176/20191129-180853-0.