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The Deposition of Paraguayan President Fernando Lugo and its repercussions in South American regional organizations*

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In June 2012, the Paraguayan Parliament executed a procedure that removed President Fernando Lugo from office. Since 1993, only two presidents have completed their mandates, Juan Carlos Wasmosy (1993-1998) and Nicanor Duarte Frutos (2003-2008). With the exception of the latter, all elected presidents have faced either successful or attempted coups, mostly organized by the military. In the case of Lugo, South American governments reacted by suspending Paraguay from two regional organizations (Unasur and Mercosur). This article has two main objectives: 01. to provide an interpretation of Fernando Lugo's deposition, in the context of the ongoing instability of Paraguay's democratic regime, as well as other similar cases in South America; and 02. to analyze the regional repercussions of the interruption of Lugo's presidential mandate, in particular the reactions from other South American governments and the ramifications for three Mercosur institutions: the Common Market Council (CMC), the Mercosur Parliament (Parlasur), and the Permanent Review Tribunal (TPR). It is argued that, despite the involvement of the parliamentary and judicial institutions of the bloc in the Paraguayan case, the governments have prevailed in both the suspension and reincorporation of Paraguay to the bloc, reinforcing both the intergovernmental nature of these regional initiatives and the prominence of national executives in regional decision-making.

Keywords: President deposition; regional blocs; MERCOSUR; UNASUR; Paraguay.

(*) <http://dx.doi.org/10.1590/1981-3821201800010006>

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In the space of just two days – June 21-22, 2012 – the National Congress of Paraguay removed the then-President Fernando Lugo from office. Since the country's first direct presidential elections in 1993, only two presidents have reached the end of their terms: Juan Carlos Wasmosy (1993-1998) and Nicanor Duarte Frutos (2003-2008). With the exception of the latter, all elected presidents have faced either successful or attempted coups d'état, most of these under the leadership of the military. The removal of Lugo was led by members of the political class, who used a strategy also seen elsewhere in the region in recent history: interrupting a presidential term while still maintaining the appearance of democratic legality. In practice, it was a typical parliamentary coup disguised by constitutional procedure. Formally, the dismissal of the President was based on the accusation, provided for in the constitution, of 'impeachment for the failure to perform presidential duties'. However, the decisive factor was the loss of political support in Congress, since both Vice President Federico Franco and the largest party of the governing coalition, the Partido Liberal Radical Auténtico (Authentic Radical Liberal Party, PLRA), had withdrawn their support for the President. More than a year before the coup, in April 2011, the PLRA National Convention had already indicated Franco's likely candidacy, making it virtually impossible for the party to support any attempt to reelect Lugo.

One of the peculiarities of the Paraguayan case was the coordinated reaction of the governments of the region. The disruption to the full legal functioning of democratic institutions was condemned by all South American presidents and their diplomatic representatives. The dominant interpretation was that democracy had been undermined and, based on the so-called 'democratic clause', according to which the full legal functioning of democratic institutions is the inviolable condition for continued membership, Paraguay had its voting rights in Mercosur and Unasur suspended¹.

This article has two main objectives. The first is to offer an interpretation of Fernando Lugo's downfall in the context of the recent trajectory of Paraguayan democracy. What have been the critical moments for the Paraguayan democratic regime during the last two decades? What was the level of international involvement in the successive institutional crises that have marked Paraguay's recent history? How do we

¹ In April 2013, new President, Horacio Cartes, was elected, taking office in August. The elections and the inauguration of the new President made possible Paraguay's readmission to Mercosur and Unasur. The present article, however, concentrates on the regional developments that occurred in the immediate aftermath of Lugo's fall.

understand the fall of President Lugo vis-à-vis other cases in the region that have been defined by the term 'neogolpismo' (TOKATLIAN, 2012)? The second objective is to analyze the regional repercussions of the interruption of Lugo's presidential mandate, in particular the reactions of other South American governments and the consequences of the presidential impeachment within three Mercosur institutions: the Consejo Mercado Común (Common Market Council, CMC), the Mercosur Parliament (Parlasur) and the Tribunal Permanente de Revisión (Permanent Review Tribunal, TPR). How was the question raised between the presidents of Argentina, Brazil and Uruguay, meeting in the CMC, whose decision resulted in the Paraguayan suspension? What were the responses of the four national delegations that make up the Mercosur Parliament? And finally, how was the petition filed with the TPR by the new Paraguayan government processed?

This article advances some arguments regarding Paraguayan democratic instability, institutional developments in the region, and the removal of Fernando Lugo: 01. the removal of Lugo is not an anomalous case, but rather the continuation of an institutional trajectory of expropriation of presidential mandates by the legislature; 02. the condemnation of Lugo's downfall by the presidents of other South American countries, from parties of both left and right, represented an act of 'presidential solidarity' and a concerted reaction by sitting presidents to the frequent interruption of presidential mandates across the region; and 03. although Parlasur and the TPR had the opportunity to actively position themselves in relation to Lugo's downfall, both bodies abstained from adopting a more assertive stance, and the discussion regarding Paraguay's suspension remained primarily linked to national executive powers.

While the first part of the article charts the institutional history of Paraguayan democracy from 1993 to 2008, the subsequent section examines the political crisis of 2012 and the removal of Fernando Lugo. After this, the regional reactions to the Paraguayan case are analyzed. First, the reactions of neighboring governments are highlighted. Then, we examine the way in which Paraguay's suspension from the other Mercosur bodies – especially in Parlasur and the TPR – unfolded. Finally, we draw some conclusions with respect to presidential instability in Paraguay and the regional repercussions, demonstrating the arguments presented above.

As regards the sources used, we have prioritized the literature on presidential instability in Latin America and primary data relating to the most recent political crisis in Paraguay, especially the documents and speeches issued by the governments of the

other Mercosur states and institutional bodies (namely, Parlasur and the TPR). To analyze the governmental repercussions, we draw on the declarations made by the Heads of State and the foreign ministers of the other Mercosur countries regarding the political situation of Paraguay. In the case of Parlasur, we consulted official documents from the parliamentary meeting that was called after the suspension of Paraguay from Mercosur, as well as media coverage across the region of the way different members of parliament positioned themselves in response to the crisis. Finally, to evaluate the case of the TPR, we focused on the arguments presented by the opposing parties and on the report issued by the TPR in July 2012.

Although there are several good studies on the causes and/or implications of presidential crises and interruptions of mandates in Latin America (HOCHSTETLER, 2007; LLANOS and INÁCIO, 2015; MARSTEINTREDET, 2008; PÉREZ-LIÑÁN, 2007, 2014; VALENZUELA, 2004), there remains a lack of studies that address the regional repercussions of presidential crises in South America. The present study seeks to fill this gap by analyzing the reactions of the intergovernmental (CMC), parliamentary (Parlasur) and juridical (TPR) bodies of Mercosur in response to institutional disruption in Paraguay.

Given the current political context in the region, and in particular the recent case of the impeachment of President Dilma Rousseff, completed on August 31, 2016, studies of this nature are not only highly relevant, but crucial. Although the present study limits itself to analyzing the roots of Fernando Lugo's dismissal and its regional repercussions, this is presented as a case study with important lessons regarding what authors like Pérez-Liñán consider a new phenomenon in Latin American presidentialism: the occurrence of presidential ousters (interruptions of electoral mandates), but accompanied by the survival of the political regime, that is to say, without the reemergence of authoritarian or dictatorial regimes (PÉREZ-LIÑÁN, 2007, 2014). It should be added that in the Paraguayan case institutional instability is hardly a new phenomenon: on the contrary, democratic ruptures have been frequent since the first direct presidential elections in the early 1990s.

Democratic instability in Paraguay between 1993 and 2008

In February 1989, a coup d'état brought an end to the dictatorship of General Alfredo Stroessner, who had ruled Paraguay since 1954. Stroessner's overthrow was led

by members of the regime's own military elites, most notably General Andrés Rodríguez, who became the new president and began a process of democratic opening marked by a series of political crises and attempted coups (LEMGRUBER, 2007). Despite the change of government, Stroessner's Colorado Party remained in power, while the former Liberal Party (now PLRA) consolidated its position as the main opposition party. Rodríguez ruled the country until August 15, 1993, when Juan Carlos Wasmosy, also of the Colorado Party, took office. Wasmosy was the first president in Paraguay's political history – since national independence in 1811 – to be democratically elected.

After decades of authoritarianism and the dominance of state politics by the Armed Forces, Wasmosy governed within a context marked by the challenge of building a democratic regime with no historical precedent, and the difficulties of addressing economic and social problems in a country recognized internationally for its stark indicators of social and political violence. The Wasmosy administration was characterized by constant instability, in particular due to internal divisions within the Colorado Party itself: on the one hand, the so-called 'civilistas', loyal to the president; on the other, the 'militaristas' led by General Lino Oviedo. Among other causes, this division was the result of efforts at commercial opening via tariff adjustment, arising from Paraguay's commitments for Mercosur membership, which impacted upon interests long rooted within the state and the productive sector.

The most critical period of the Wasmosy administration occurred between April and June 1996, after Congress rejected a bill to build a second bridge between Paraguay and Brazil that the president's own companies would have profited from. In the context of growing polarization within the Colorado Party, Oviedo led an attempted military coup. The government survived thanks only to international involvement, triggered by the negative repercussions the crisis was having. With the political action of the governments of Argentina, Brazil, the United States and Uruguay, as well as the then Secretary General of the Organization of American States (OAS), former Colombian President César Gaviria, conditions were established for an agreement between the main actors.

As a direct consequence of this episode, on June 25, 1996, the leaders of the four Mercosur countries signed the Presidential Declaration on Democratic Commitment. The Declaration would be the forerunner of the Ushuaia Protocol on Democratic

Commitment, which formalized, for the first time, the so-called 'democratic clause' between the Mercosur countries in July 1998.

On August 15, 1998, newly elected president, Raúl Cubas, took office. He was also from the Colorado Party and was supported by the 'militaristas', including General Oviedo, who had been prevented by the courts from contesting the elections due to his 10-year prison sentence for the attempted coup in 1996. As expected, Cubas granted amnesty to Oviedo only three days after taking office. The release order generated a conflict between the Executive and Judiciary Powers, although the Supreme Court ultimately ruled in favor of Oviedo's return to prison. When the government insisted on the legality of the presidential act, Congress threatened to initiate impeachment proceedings against Cubas.

In the midst of the institutional crisis, Vice President Luis Carlos Argaña – who in the space of a few months had become an opponent of the president – was assassinated in the capital city, Asunción on March 23, 1999. President Cubas and General Oviedo were widely regarded as responsible for the killing. After the impeachment process against Cubas began, there was a violent attack on students and industrial and rural laborers, which left seven people dead and more than two hundred injured. The incident generated widespread internal and international outrage. The uprising, which became known as 'el marzo paraguayo' (the Paraguayan March), intensified the climate of insecurity and international pressure, especially from the governments of Argentina and Brazil. Six days after Argaña's death, the president resigned. He was replaced by the president of Congress, Luis Ángel González Macchi, a member of the Movimiento de Reconciliación Colorada (Reconciliation Movement of the Colorado Party, MRC), the reformist wing of the Colorado Party, also known as 'Argañismo', which had been led by the assassinated vice president.

President Macchi formed a coalition with the main opposition parties – the PLRA and the Partido Encuentro Nacional (National Unity Party, PEN) – appointing a cabinet with representatives from various parties and adopting a strategy of ministerial rotation in an attempt to resolve the crisis and maintain the support of the Congress. Despite this, Macchi governed in a state of constant crisis, facing corruption accusations and three attempts to initiate impeachment proceedings, in addition to successive coup attempts, one of them led again by officers linked to Oviedo in March 2000. Even living in asylum in Brazil, the General continued to exert influence over Paraguayan politics.

Macchi governed the country until the end of Raul Cubas' original mandate on August 15, 2003, at which point newly-elected president Nicanor Duarte Frutos, also a member of the MRC, took office.

President Nicanor Duarte was able to see out his five-year constitutional term, but his government was not much different from the previous ones in terms of political instability and polarization, not to mention the acute financial crisis that the Paraguayan state faced during this period. There were resignations of ministers accused of corruption, including the Minister of the Interior and the Head of the Internal Revenue Service, and there was the revelation, by the Intelligence Services of Paraguay and Brazil, of a plan to assassinate the president. The insecurity led the president to take to the streets with the Armed Forces, a decision that generated outrage among numerous civil society organizations. In light of Duarte's simultaneous candidacy for the presidency of the Colorado Party, the opposition called on Congress to impeach him. However, the Judiciary ruled that the candidacy was legal and blocked the process. Like his predecessors, Duarte employed the strategy of rotating key executive positions, producing ad hoc solutions within the overarching state of crisis and containing the looming threat of impeachment by Congress.

The crisis of 2012 and the fall of President Fernando Lugo

Fernando Lugo, a Bishop in the Catholic Church, led a coalition of trade unions, social movements and other forces opposed to the government of Nicanor Duarte. He joined the Christian Democratic Party and defeated the Colorado Party with a broad leftist and center-left coalition, with the PLRA's Federico Franco as his vice-presidential running mate. Elected in April 2008 with 41% of the vote, Lugo had to deal with a fragile and fragmented base within Congress. Although elected by a coalition of eight political parties, he never achieved a stable majority in the Chamber of Deputies or Senate. With no majority in parliament, the government had to proceed via negotiation on a vote-by-vote basis. His mandate was also marked by successive crises and attempts at impeachment, as well as an attempted military coup in October 2009, which led the President to replace the entire military leadership. The first non-Colorado president for more than sixty years was confronted by a large number of actors with veto powers, including not only the opposition parties but also sectors of the ruling coalition itself, leaving him in an increasingly isolated position.

President Lugo's removal from office took only two days to be completed. The legal provision used by Congress to justify the removal was Article 225 of the 1992 Paraguayan Constitution, which allows for impeachment on the grounds of a failure to perform presidential duties. Based on this article, on June 21, 2012, the Chamber of Deputies authorized the initiation of impeachment proceedings and the following day the Senate confirmed the termination of the presidential mandate. The main events, which led to the political isolation and downfall of President Lugo, are detailed in the legal case presented against him. According to this document, the facts that substantiated the request of presidential destitution were: 01. the political protest carried out at the Armed Forces' Engineering Command, in 2009: the President was accused of authorizing a demonstration in front of the premises of this institution, characterized by slogans against the 'oligarchic sectors' and financed by public institutions, such as the Binational Yacyreta Company; 02. the Ñacunday Case: the President was charged with instigating, facilitating and supporting several land invasions in the eastern region of the country; 03. growing insecurity in the cities and the countryside: the legal case blamed the President for growing problems of public security and disorder, as well as his unwillingness to combat the guerrilla group Ejército del Pueblo Paraguayo (Paraguayan People's Army, EPP); 04. the signature of the Ushuaia II Protocol: the procedure that led to the presidential signature was criticized for a lack of transparency and accused of being an attack on Paraguay's national sovereignty; and 05. the alleged negligence, ineffectiveness, ineptitude and improvisation of the government in the Matanza Curuguaty case of June 15, 2012, when a clash between police forces and landless workers resulted in 17 deaths.

Occurring just a week before the initiation of the impeachment process, this last incident was the trigger for the crisis that led to the President's fall. In terms of evidence against the President, the legal case limited itself to stating that all the facts were simply of 'public notoriety', which therefore did not need to be proved by a parliamentary investigation. However, the events mentioned in the indictment must be understood as particular manifestations of the more general picture of political and institutional instability and military interference in politics that has marked Paraguay's democratic regime since the end of the long Stroessner dictatorship. While the literature we will now discuss addresses the recent reemergence of presidential downfalls in Latin America, now characterized by the survival of democratic regimes and without direct

military intervention, it should be noted that in the Paraguayan case instability has been permanent, coup attempts constant, and interruptions to presidential mandates nothing new in the short history of the country's democratic institutions.

According to the aforementioned literature, premature presidential departures are a recurring phenomenon in Latin America. Hochstetler (2007), for example, has analyzed the ways that presidents in South America have been challenged and have left office. According to her, 40% of presidents elected in the region since 1978 have been challenged by opponents attempting to remove them from office, while 23% of elected presidents have not even been able to complete their mandates as the result either of resignation or impeachment. First, Hochstetler (2007) notes that the most contested presidencies are those characterized by the adoption of neoliberal policies, those in which presidents are personally implicated in corruption scandals, and those where presidents do not hold a parliamentary majority. Secondly, she argues that the reemergence of interruptions to presidential terms in the region exposes a phenomenon that runs counter to the dominant assumptions of presidentialism: "that presidential mandates are strictly set, that the population can neither withdraw nor guarantee these mandates, and that political conflict under presidentialism leads to the collapse of democracy" (HOCHSTETLER, 2007, p. 199; translated by the authors). For her, the high rates of presidential contestation and institutional disruption tend to corrode democratic political regimes.

For Tokatlian (2012), presidential crises have taken on new characteristics in the post-Cold War period, distinguishing recent cases from the long tradition of military coups in the region. Tokatlian (2012) proposes the concept of 'neogolpismo', whose characteristic elements are: 01. leadership by civilian actors, even if there is implicit support or explicit complicity of the military; 02. the appearance of institutional normality, since legal expedients are used to remove presidents; 03. the absence of involvement of foreign powers, as had been the case of the United States in almost every coup prior to this period; and 04. the claim that the removal of the president was being used as a means of overcoming or mitigating the consequences of a social and/or political stalemate². Although all of the characteristics described by Tokatlian (2012) are

² For him, the recent wave of presidential downfalls reveals a new political phenomenon in the region: "the 'legal' removal of Jamil Mahuad in Ecuador in 2000; the 'institutional' overthrow of Hugo Chávez in Venezuela in 2002; the forced 'exit' of Jean-Bertrand Aristide in Haiti in 2004;

present in the case of Lugo, as has been said, what is most striking in the case of the Paraguay's recent democratic experience is the fact that the phenomenon is not properly new. Was it 'golpismo' pure and simple, without the need for the 'neo' prefix?

As for similarities with the other cases of political instability in the region, we can use the conclusions of Pérez-Liñán (2007) as a yardstick for discussing President Lugo's downfall. For him, four key elements are shared by the different cases that have occurred under the 'new pattern of political instability': 01. the armed forces are either unwilling or unable to intervene in crises, unlike in the past when they were a key actor in the political arena, especially in disputes between state powers; 02. the media appear as 'guardians of public morality', mobilizing campaigns about corruption scandals that are directed against presidents and/or their political allies; 03. popular mobilizations are a crucial variable in explaining presidential removals in the context of anticorruption campaigns or economic crises; and 04. the role of Congress, which – in contrast to the traditional scenario of power concentrated in the hands of the Executive – now assumes political and institutional responsibility for removing presidents and guaranteeing the transfer of power within the existing terms of the Constitution.

Examining the role of Congress in presidential downfalls, Santos (2017) uses the term "parliamentary coup" to highlight the significant role of parliamentary leaders in removing executive leaders. Coelho (2012), analyzing the specific case of Paraguay in light of contemporary debates on presidential departures in Latin America, observes that the removal of Lugo presents some typical characteristics of the recent history of presidential downfalls, such as, "the extreme polarization of political forces, conflict between state powers and the use of impeachment as the main instrument for removing presidents" (COELHO, 2012a, p. 12; translation by the authors). On the other hand, however, he finds that the Lugo case also presents certain peculiarities, especially "the absence of popular protests against the dismissed president and a process of impeachment whose main charge amounted to a subjective evaluation of the performance of the agent." (COELHO, 2012a, p. 12; translation by the authors).

the 'constitutional' replacement of Manuel Zelaya in Honduras in 2009; and the police 'putsch' against Rafael Correa [in Ecuador] in 2010" (TOKATLIAN, 2012, p. 1; translated by the authors). It should be added, however, that some authors do consider the United States to have played an active role in the fall of Manuel Zelaya in 2009, Fernando Lugo in 2012, and Dilma Rousseff in 2016. The investigation of possible US backing for some presidential removals, although clearly of great geopolitical relevance, is beyond the scope of this article.

Table 01. Presidents of Paraguay (1989-2012)

| President / Party | Means of accession | Start – End (month/year) | Were there coup attempts? | Was mandate completed? |
|---|---------------------------|--------------------------|---------------------------|------------------------|
| Andrés Rodríguez (Colorado Party) | Coup d'état | 02/1989 – 08/1993 | No | Yes |
| Juan Carlos Wasmosy (Colorado Party) | Direct elections | 08/1993 – 08/1998 | Yes | Yes |
| Raúl Cubas (Colorado Party) | Direct elections | 08/1998 – 03/1999 | No | No |
| Luís Ángel González Macchi (Colorado Party) | Constitutional succession | 03/1999 – 08/2003 | Yes | Yes |
| Nicanor Duarte Frutos (Colorado Party) | Direct Elections | 08/2003 – 08/2008 | No | Yes |
| Fernando Lugo (Guasú Front) | Direct Elections | 08/2008 – 06/2012 | Yes | No |

Table 01 presents a comparison of Paraguayan presidents since the end of the Stroessner dictatorship. As can be observed, among the directly elected presidents, the only one who managed to finish his constitutionally mandated term without an attempted coup was Nicanor Duarte. As for the other elected presidents, they have either had their mandates interrupted or had to deal with successive institutional crises. Analysis of the removal of Fernando Lugo in Paraguay supports the arguments of Marsteintredet (2008), who states that: "Presidential regimes are changing their modus operandi by introducing a greater number of more flexible, and in some cases also quasi-parliamentary, solutions to political crises, as well as new ways of making presidents politically accountable (MARSTEINTREDET, 2008, pp. 47-48; translation by the authors).

We must note, however, that presidential instability in Paraguay is the norm and that the fall of President Lugo continues a common pattern during the almost three decades of presidential elections in Paraguay.

The immediate reactions of the governments of South America

The presidents of all the countries of South America condemned President Lugo's removal. In the case of Mercosur countries, at a meeting of the Common Market Council held in Mendoza on June 29, 2012 Argentina, Brazil and Uruguay decided to suspend Paraguay from the bloc until new presidential elections were held. This meant removing representatives of the Paraguayan state from all bodies within Mercosur. The joint declaration of the presidents of the region stated their major doubts regarding the

impeachment process that led to Lugo's departure, within which there was no possibility for a substantial defense of the President against the accusations presented in the lawsuit. They also expressed their broader concerns regarding Paraguay's adherence to democratic norms.

Based on this evaluation, Brazilian Foreign Minister Antônio Patriota stated that the Mercosur countries had chosen to suspend Paraguay from participating in meetings and other activities of the bloc, in accordance with the terms of Article 05 of the Ushuaia Protocol (BBC BRAZIL, 2012)³. Argentine President Cristina Kirchner compared the Paraguayan case to other instances she described as 'soft coups', such as the attempts to oust Evo Morales in Bolivia and Rafael Correa in Ecuador, all disguised by the 'patina of a certain institutionality' that would not amount to a rupture of the constitutional order of these countries (LA NACIÓN, 2012). Kirchner's interpretation converges with the arguments presented in the previous section, especially with regard to the appearance of democratic legality that has been maintained throughout the various institutional disruptions in the region.

As a result of the parliamentary coup disguised as constitutional impeachment against Lugo, the foreign ministers of eleven South American countries united on June 22, 2012 to condemn the Paraguayan Congress summary dismissal of the President – an act without precedent in the history of coups in the region. Congress failure to present evidence of a crime of responsibility, and instead, as mentioned above, its pursuit of impeachment on the grounds of 'public notoriety', in addition to the summary way in which the President was removed, were interpreted by the South American foreign ministers as characteristic elements of a rupture of the democratic order in Paraguay.

In line with the official declarations of the governments, they opted for the simple political suspension of Paraguay and thus avoided imposing economic-

³ The Ushuaia Protocol established the procedures to be adopted by other countries in the event of democratic disruption. Measures range from suspension of the right to participate in Mercosur bodies, as occurred after the 2012 coup, to suspension of all rights and obligations involved in the process of integration. The commitment to Ushuaia was reinforced by the signing of a new 'democratic clause' within the Mercosur area in December 2011, which was broader and more detailed in outlining the required actions of member states in cases where the democratic order was interrupted. Furthermore, defense of democratic institutions as a condition for continued participation in regional institutions was not only expressed within Mercosur. It was also formalized more widely in South America with the signing of the Additional Protocol to the Constitutional Treaty of Unasur on Commitment to Democracy in November 2010, in response to the attempted coup in Ecuador in September of that year.

commercial sanctions that would directly harm the Paraguayan population. One of the notable characteristics of the response of South American leaders to the Paraguayan political crisis, as Lima (2012) observed, was the quick and unanimous move to condemn the summary impeachment of Fernando Lugo, a novelty compared to previous cases. In the specific case of the Mercosur countries, Argentina also temporarily withdrew its official diplomatic representation in Asunción, while Brazil and Uruguay conducted consultations with their respective ambassadors, giving a clear sign of diplomatic discomfort, as noted by Gaio (2012).

From an institutional perspective, Paraguay's rapid suspension from Mercosur and Unasur can be linked to the strong role of presidents in driving forward regional integration, and by the absence of institutions that are fully autonomous of national governments, that is, by the preponderance of so-called 'inter-presidentialism' as described by Malamud (2010). On the other hand, from an ideological perspective, the shared left-wing orientation of governments in Argentina, Brazil and Uruguay assisted them in reaching a rapid consensus. It is important to add that the decision to suspend Paraguay also resulted in Venezuela's admission to Mercosur, which had not yet been completed due to the Paraguayan Senate's refusal to ratify the agreement signed by the four Mercosur presidents in 2006. With the suspension of Paraguay, this impediment was removed and Venezuela could be admitted to the bloc⁴.

It should be noted that solidarity between left-leaning administrations also extended to other South American governments, such as Ecuador, Bolivia and Venezuela (LLANOS, NOLTE, and WEBER, 2012). However, ideological motivation is unable to explain the position of the other countries, since the suspension of Paraguay from Unasur was supported by governments with different political orientations to those of the Mercosur members, such as Colombia and Chile, for example. Therefore, we can state that the responses of other countries in the region embodied an attempt to fulfill the commitment to defend democratic institutions in the South American region, albeit

⁴ Around four years later, in December 2016, Venezuela was itself suspended from Mercosur, by a unanimous decision by Argentina, Brazil, Paraguay and Uruguay. The notification of Venezuela's suspension stated that the country has not fulfilled the obligations assumed in the 'Protocol of Accession of the Bolivarian Republic of Venezuela', signed ten years before. Of the 57 accords agreed upon in the Protocol of Accession, Venezuela had only incorporated 16 (FOLHA DE SÃO PAULO, 2016).

within certain institutional limitations⁵. The next sections deal, respectively, with the repercussions of the Paraguayan suspension in two other institutions of the bloc, Parlasul and the TPR.

The attempt to debate Paraguay's suspension in the Mercosur Parliament

The suspension of Paraguay from Mercosur had repercussions in Parlasur on two main issues. The first concerned the decision as to whether or not a session should be convened in which members could vote on a common position regarding the suspension. The second concerned whether or not to accept the CMC's decision to suspend Paraguayan representatives from all of the bloc's institutions. The positions on these questions within each of the national delegations varied significantly, as the following analysis demonstrates. It is argued that this fact can be attributed to two factors: the institutional immaturity of Parlasur, a body characterized by major uncertainty regarding its role in relation to the institutions of the bloc, and the prevailing relations between the various national delegations and their respective governments.

When Mercosur was created, the inclusion of parliamentary bodies was seen not only as a way of legitimizing the integration process politically, but, above all, as a means of facilitating the process of internalizing the norms negotiated by the national executive powers. The Joint Parliamentary Committee (CPC) was created with the signing of the Treaty of Asunción (1991) and was formally incorporated into the institutional structure of the bloc by the Ouro Preto Protocol (1994) (LUCIANO, 2012). At the beginning of the twenty-first century, there was a new impulse to regional integration, due to the rapprochement between Argentina and Brazil and the economic recovery of these countries. After the meetings of presidents of South America in Brasilia (2000) and Guayaquil (2001) and with the rise of the governments of Luiz Inácio Lula da Silva in Brazil and Néstor Kirchner in Argentina, both coming to power in 2003 and sharing similar ideological orientations, a new phase of regional integration got underway (EPSTEYN and JATOBÁ, 2007).

⁵ Other international bodies active in the Americas, such as the Organization of American States (OAS) and the declaration of the presidents of the Ibero-American Summit, also affirm their commitment to defending the democratic order in the region, however, with little clarity regarding the procedures by which they would ensure this outcome.

In this context of 'relaunching the bloc', the Constitutive Protocol of the Mercosur Parliament (2005) was signed. This instrument, which came into force the following year, transformed the former Joint Parliamentary Commission into an institution with characteristics closer to a parliamentary legislative body within the framework of regional integration, although it still possessed very limited powers (RIBEIRO, 2008). According to the Constitutive Protocol of Parlasul, one of the agency's roles would be to "assume the permanent promotion and defense of democracy, freedom and peace", with the responsibility "to ensure the preservation of the democratic regime in the party states, in accordance with Mercosur rules, and in particular the Ushuaia Protocol on Democratic Commitment in Mercosur, the Republic of Bolivia and the Republic of Chile" (PARLASUL, 2005, p. 2; translation by the authors). As such, Parlasul would be an appropriate forum for debating issues related to instability and democratic disruption within the Mercosur States.

In the context of the crisis that led to the removal of Lugo, and taking into account the fact that the body is composed of representatives of all member countries, Parlasul could have provided a space for dialogue between representatives of Paraguay and of the other countries of the bloc. It was for this reason that a meeting of the body was convened for July 02, 2012, two weeks after the fall of Lugo.

Table 2. Positioning of national delegations, with regard to opening the session and suspending Paraguay from Mercosur

| National Delegation | Opening the Session | Suspending Paraguay from Mercosur |
|---------------------|--|--|
| Brazil | All in favor | Opposition against Government in favor |
| Argentine | All against (obstruction) | All in favor ⁶ |
| Uruguay | Opposition in favor Government against | Opposition against Government in favor |
| Paraguay | All in favor | Government against Opposition in favor |

Source: AGÊNCIA CÂMARA (2012) and AGÊNCIA SENADO (2012).

⁶ We presume that the absence of all Argentine members of parliament, thus, in effect, blocking the proposed debate in Parlasul regarding the suspension, shows that the entire Argentinian delegation supported the position of the Argentine government in favor of the suspension.

The Paraguayan, Brazilian and Uruguayan representatives were present at the Mercosur headquarters in Montevideo, but the Argentinian delegation failed to attend. This meant the minimum quorum for opening Parlasur's first session of the year was not obtained (AGÊNCIA CÂMARA, 2012), because it is necessary that at least one representative from each of member country to be present for any session to be opened. Based on the positions adopted by members of the Mercosur Parliament, summarized in Table 02, some important considerations can be made regarding the frustrated attempt to debate the issue.

The majority of the Brazilian delegation believed that Parlasur would act independently and that the Paraguayan members of parliament had the right to be present, expressing a view of the Parliament as an autonomous institution in relation to the other intergovernmental bodies. Even the Brazilian representatives who sided with the government in supporting the Paraguayan suspension believed that the Paraguayan members of Parlasur should have the right to exercise their parliamentary functions, as reported by the Brazilian Senate news agency:

With the presence of a majority of federal deputies, the Brazilian representatives in Parlasur agreed, by majority vote, that Brazil would oppose the definitive exclusion of Paraguay. The majority position was that Parlasur is independent of the governments that form the bloc and therefore does not have to follow the decisions of the executives. On the other hand, it was also significant that Paraguay is the only member to have elected its members of parliament in Mercosur by direct vote, unlike the other three countries, which select their representatives among members of the national parliaments (AGÊNCIA SENADO, 2012, p. 01; translation by the authors).

As for the question of the suspension itself, it is possible to identify political dimensions relating to government-opposition dynamics among the Brazilian representatives in Parlasur. While Deputy Dr. Rosinha (Partido dos Trabalhadores, PT), former president of the Mercosur parliament and a member of the governing party, followed the position of the Brazilian executive in supporting Paraguay's suspension, Deputy Eduardo Azeredo (Partido da Social Democracia Brasileira, PSDB), one of the opposition leaders and also a Parlasur deputy, was critical of the position of the Brazilian foreign ministry, especially with respect to the process surrounding Venezuela's admission into the bloc.

It is the case of the Argentinian group that best demonstrates the lack of consensus regarding Parlasur's role within the bloc: "Officially, information was

obtained that the Argentinian government had recommended that its delegation stay away, so as to apply, in practice, the political sanctions approved in Mendoza, during the summit of the Mercosur heads of state" (AGÊNCIA CÂMARA, 2012, p. 01). The position of the Argentinian delegation indicates that its members followed the Argentinian foreign ministry in believing that Parlasur should be subordinated to the decisions of the executives. Due to the absence of the Argentinian members of parliament, the meeting could not take place. In practice, the Argentinian delegation, standing unanimously against even holding the meeting to discuss Paraguay's suspension, exercised a national veto power, thus obstructing the opening of the session.

The directly-elected Paraguayan members of Parlasur were present in Montevideo and hoped to participate in the meeting, including both supporters and critics of Lugo's impeachment. The case of the Paraguayan group thus reaffirms the lack of a unified position within the national delegations.

Finally, the actions of the Uruguayan delegation also indicates the presence of political divisions: "The Uruguayans were divided. Some wanted the session to be held, others did not" (AGÊNCIA CÂMARA, 2012, p. 01). The left-wing MPs of the Frente Amplio (Broad Front, FA) followed the recommendation of the Uruguayan Foreign Ministry and did not enter the chamber, while their opponents supported the opening of the session and adopted a position that was highly critical of the manner in which Paraguay had been suspended.

As the Paraguayan case has demonstrated, there is no guarantee that there will be national unity in the positions taken by members of the regional parliament. The ideological differences within each of the national blocs in Parlasur prevent collective action among representatives. Moreover, their behavior is similar to that identified within the political configurations of another regional parliament: the European Parliament (HIX, NOURY, and ROLAND, 2006). Since the national delegations in Parlasur do not only include supporters of the respective national governments, the political positions within Parlasur do not necessarily reflect those of the foreign ministries. The government-opposition dimension in the Paraguayan case demonstrates the plurality of opinions within each national delegation, indicating that the logic of preferences in Parlasur is distinct from that of national governments. Opposition parties in Brazil and Uruguay took advantage of the regional parliament to express their opposition to Paraguay's suspension from the bloc, just as Paraguayan members of parliament

opposed to Lugo's departure challenged the position of the country's new rulers. On the other hand, in the Argentinian case, the fact that the individuals who composed the Argentinian delegation were all in agreement with the position of the executive led them to unanimously support the position of President Cristina Kirchner in favor of suspending Paraguay.

Furthermore, the cancellation of the July meeting of Parlasur indicates that there is no consensus regarding the role of Parlasur within Mercosur. Even though Parlasur's stated role is to act in defense of democracy, the members of parliament still differed over how to act in what was a clearly relevant case. Some members of parliament understood Parlasur to be an autonomous parliamentary institution, not subordinated to the decisions of national governments. In this understanding it embodies supranationality in a relational sense, that is, autonomy in relation to intergovernmental institutions (MARIANO, 2011). Other representatives, however, understood the parliament to be subordinated to the foreign ministries, and thus not competent to decide upon such a controversial topic.

However, it is reasonable to argue that Paraguayan members of parliament should not have been suspended from Parlasur as they were. The Constitutive Protocol of Parlasur provided the body with relative autonomy in relation to national executives, in addition to establishing it as one of the entities responsible for defending democracy within the bloc. The Paraguayan members were directly elected for an exclusively regional mandate, even though these elections were classified as second-order elections (SCHMITT, 2005), given the preeminence of national and non-regional issues in Paraguay's electoral campaign in 2008 (MARIANO, 2011).

Paraguay's appeal to the permanent review tribunal

On July 09, 2012, the new government of Paraguay appealed to the TPR, challenging the legality of its suspension from the Mercosur body and the incorporation of Venezuela as a full member of the bloc. Paraguay did not receive a favorable response from the Court: the five judges examined only the preliminary, or procedural, issues raised by the parties and, because they recognized the existence of preliminary circumstances that would prevent consideration of the matter, they did not examine the merits of the appeal itself. In this section, we analyze the arbitration process initiated at

the request of the Paraguayan government, setting out the arguments presented by the parties and the decision of the TPR as contained in Report N° 01/2012 of July 21, 2012.

Mercosur's current dispute settlement system was instituted by the Olivos Protocol for the Settlement of Disputes in Mercosur, of February 2002, replacing the so-called 'Brasília system' created by the Brasília Protocol in 1991. The main features of the current 'Olivos system' were summarized by Bressan (2012): the free choice over which dispute forum to use (between Mercosur and the WTO); the role of the Grupo Mercado Común (Common Market Group, GMC), intervening in the initial negotiating stages; the reduction of stages for resolving disputes; and the creation of the Permanent Review Tribunal (TPR). In addition, the Olivos Protocol provides for the use of direct negotiations, one of the issues that would come to the fore in the case of Paraguay's political suspension.

On the one hand, the new system preserved the provision of an arbitration procedure via the constitution of ad hoc Arbitration Tribunals, while on the other hand it introduced the previously unavailable option of bringing an appeal to a permanent court, the TPR. This body was created to produce consistent and systematic jurisprudence within the bloc, and was instituted only on August 13, 2004 in Asunción. Although constituted as a court for reviewing the outcomes of arbitration processes, the TPR can also act in the first instance. In legal terms, it also acts as an 'a quo' court and not only as a court of appeal, or 'ad quem' judgment.

The jurisdiction of the TPR is consultative, meaning that it is not mandatory for the national authorities to follow the judgments it issues, which only constitute lines of interpretation. As regards the rules by which requests for advisory judgments are referred to the TPR, the Protocol respected the intergovernmental nature of the bloc and left this to the discretion of national judiciaries⁷. Unlike the legal structure developed in the European Union, the creation of the TPR did not produce autonomous, supranational institutions in Mercosur's dispute settlement system.

⁷ In the case of Brazil, for example, the regulation of requests was established by Regimental Amendment N° 48, of the Federal Supreme Court, published on April 03, 2012.

The case of the political suspension of Paraguay was the fourth request for an advisory opinion made to the Court since its inception⁸. In response to the Paraguayan government's appeal, the TPR met from July 19 to 21, 2012.

Upon analysis, three sets of arguments can be observed in the petition presented by the representatives of the new Paraguayan government. Firstly, it was alleged that the gravity of the suspension imposed by the Presidential Summit would cause irreparable damage, inasmuch as it would deny the exercise of inalienable and sovereign rights by the Paraguayan State; that the suspension was not enacted via rules issued by a Mercosur body provided for in Article 41 of the Ouro Preto Protocol, but instead by a summit meeting whose participating heads of state lacked the legitimacy to adopt binding decisions; and, lastly, that there was no disruption of the democratic order and that the consultations provided for in Article 04 of the Ushuaia Protocol should never have taken place. The second set of arguments related to the admission of Venezuela to Mercosur as a full member. It was alleged that this decision by Argentina, Brazil and Uruguay violated the requirement for Paraguay's participation as a full member of the bloc, which denied it the ability to exercise its rights and obligations as a signatory of the Protocol of Accession; that the decision therefore lacked the unanimity required for the taking of decisions under Article 20 of the Treaty of Asunción; and that Article 40 of the Olivos Protocol had not been observed. The third set of arguments was based on a variety of norms and principles of international law, such as the 1969 Vienna Convention on the Law of Treaties, which they argued had been violated by the decision of the other Mercosur members assembled at the CMC. With respect to the procedure chosen by Paraguay, they opted for a route specifically reserved for exceptional and urgent cases, provided for in Article 24 of the Olive Protocol.

In their response to Paraguay's request, the governments of Argentina, Brazil and Uruguay presented their defense in a joint petition, probably as a way of challenging the impression that the Uruguayan government had been forced to approve the suspension. In their defense of the decision taken by the presidents, three preliminary points were raised: firstly, they alleged that the Court did not have the competence to rule on the case on the grounds of subject-matter jurisdiction ('*ratione materiae*'), taking

⁸ It is interesting to note that the first three consultations with the TPR all related to the primacy of integration law. *Opinião Consultiva 01/2007*, *Opinião Consultiva 01/2008* and *Opinião Consultiva 01/2009*. Available at <http://www.tprmercosur.org/pt/sol_contr_opiniones.htm>. Accessed on November, 13, 2013.

into account the political nature of the decision to suspend Paraguay and the commercial nature of the Mercosur dispute settlement system; secondly, they alleged that the procedure for exceptional and urgent cases provided for in Article 24 of the Olivos Protocol that had been chosen by the applicant, did not apply to the case; and finally, the three countries claimed that the Court lacked the necessary jurisdiction of an 'originating body' ('instancia originaria'), due to its being a Permanent Review Tribunal.

On the merits of the case, the joint petition defended the legality of both the suspension of Paraguay and the accession of Venezuela. Regarding the Paraguayan suspension, the following points were emphasized: the importance of the democratic clause, provided for in the Ushuaia Protocol, and its link to the continuation of the integration process; the claim that previous consultations with various Paraguayan political actors had been held; the rights of the Heads of State to suspend Paraguay, as well as the proportionality of the measure, being of a strictly political and provisional nature; and finally, the defendants maintained that the removal of President Lugo, carried out by means of a summary procedure, had produced an effective rupture of the democratic order in Paraguay. Regarding the legality of the declaration of incorporation of Venezuela into Mercosur, the joint petition argued for a distinction between two acts: on the one hand, the approval of the application for membership, which would require unanimity and which already had the support of Paraguay; and, on the other hand, the declaration of admission of a new member, which would not require such unanimity.

The TPR decision can be summarized through the analysis it offered on the three preliminary issues raised by the joint defense, that is the claim that the case lay outside the TPR's jurisdiction, being a political rather than commercial matter; of the impermissibility of the procedure chosen by Paraguay, reserved for exceptional and urgent matters; and of the TPR's lack of authority for not being an 'a quo' court. As regards the first preliminary question, perhaps the most important of the three since the Tribunal's position on the matter was not yet known, it was decided unanimously that its jurisdiction extended to examining the legality of the application of the Ushuaia Protocol. It was therefore considered competent to hear the matter submitted to it by Paraguay. On the second preliminary question on exceptional cases of urgency, the TPR accepted it unanimously, deciding that the conditions for the admissibility of the corresponding procedure, which was governed by Decision 23/2004, were not present. Finally, with regard to the third preliminary issue on direct access to the Tribunal, it was

decided by majority vote that the TPR could not intervene directly in the case without the express consent of the other state parties. Therefore, having accepted two of the three procedural issues raised by the joint petition, the arbitrators unanimously decided to reach a decision without entering into the merits of the case.

Final considerations

The overview we have provided of Paraguay's democratic experience and our analysis of the regional reactions to the removal of President Fernando Lugo in 2012 support our key arguments. First, the institutional instability of democracy in Paraguay is demonstrated not only by the record of premature presidential departures – as was the case for Presidents Raúl Cubas and Fernando Lugo – but also by the almost permanent state of crisis in the country: with the sole exception of President Nicanor Duarte, who succeeded in completing the mandate for which he was directly elected, all presidents elected since 1993 have either been removed or otherwise forced to govern under the recurrent threat of removal. In this sense, the fall of Lugo should not be treated as an anomalous case, but rather as the continuation of a clear pattern: of the legislative branch determining the fate of the president, also one of the characteristics of recent presidential crises elsewhere in the region. The Paraguayan case, in this sense, fits within the parameters proposed by Pérez-Liñán (2007) regarding the new trends accompanying political crises in the region: the inaction of the armed forces; involvement of the media; outbreaks of popular mobilization; and the decisive role of the legislative branch.

Secondly, the article also sought to analyze regional reactions to the Paraguayan political crisis. Within the region's governmental institutions, the countries of South America quickly adopted a unanimous position, condemning the fall of Fernando Lugo in sessions of both Mercosur and Unasur. Heads of state from parties of both left and right condemned the disruption in Paraguay. This can be seen as an act of 'presidential solidarity' which transcended partisan and ideological differences across the region. What prevailed was a determination to defend regional political stability and react to presidential crises in a coordinated manner.

We also sought to analyze the regional repercussions of other Mercosur political and judicial bodies, particularly Parlasur and TPR. In the case of Parlasur, the plurality of positions adopted by the national parliamentary delegations indicate that the

consensual stance of the region's presidents in condemning the political rupture in Paraguay was not fully supported by the region's parliamentary representatives. With the exception of the Argentinian parliamentary delegation, all other representations were divided on the question of Paraguay's suspension from Mercosur. As a result, the convergence of positions that could be seen among national governments in condemning Lugo's removal was not reflected in the positions adopted in Parlasur. The opposition parties tended to adopt the position contrary to those of the governing parties in the cases of Brazil, Uruguay, and of the deposed party in Paraguay, which supported Paraguay's suspension from the bloc. While the executive bodies of Mercosur operate through decisions based on consensus between member states, Parlasur is, par excellence, the home of regional ideological plurality, where different political positions are represented. In the Paraguayan case, the parliament therefore served as a sounding board for the region's political parties, both those in government and in opposition, which were able to express themselves at a regional level and articulate their positions with the parties of the other Mercosur countries.

Furthermore, we can observe a general lack of understanding regarding the competence or otherwise of the parliament to respond to possible institutional ruptures in the region. This ambiguity undermines Parlasur's role of monitoring and defending democratic values and human rights in the region. The Paraguayan case was a missed opportunity for the parliament to position itself as an autonomous institution in relation to the executive powers and as an ideal forum for debating the main regional political issues within the bloc, such as the suspension of Paraguay and the subsequent admission of Venezuela.

Regarding the actions of the TPR, the latter did not emerge as a mechanism capable of altering the situation that had been established among the national executive leaders. Although it was ruled to have the authority to analyze cases of democratic instability in Mercosur countries, it did not enter into the merits of the Paraguayan case, since there was no consensus among the Mercosur states behind pursuing such a process. In other words, the case of the removal of the Paraguayan president points to the institutional limits of both parliament and the court: the case of the Paraguayan suspension demonstrates the inferiority of bodies such as Parlasur and TPR vis-à-vis the CMC and especially the Mercosur heads of state, in line with the third argument of the article. Although both agencies (Parlasur and TPR) initially reacted to the Paraguayan

suspension, they did not take advantage of the case to position themselves more emphatically in relation to political crises within the bloc. The failures of Parlasur to hold a plenary session and of the TPR to consider the merits of the case brought to it by the Paraguayan government prevented a greater involvement of these two bodies in the crisis, meaning it was primarily debated by the member states.

Translated by Matthew Richmond
Submitted on December 02, 2016
Accepted on October 15, 2017

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