Political changes underway in the Andean region have transformed the electoral and institutional landscape in practically all of its countries. While these are highly diverse processes marked by major ideological, economic and social differences, they have one important similarity: the attempt to elevate the executive branch above all others, both horizontally (judiciary, legislature) and vertically (governors, mayors). These processes have not been alike, concurrent, or yielded the same results, but save for post-Fujimori Peru, all of them have turned re-election of an incumbent president into a focal point. Succinctly put, this process has consisted of constitutional changes and reforms designed to strengthen the president’s hand and allow immediate re-election (Colombia, Bolivia, Ecuador and Venezuela), followed by attempts to introduce formulas allowing incumbents to succeed themselves a third time and beyond (Colombia and Venezuela, respectively). Peru alone succeeded in dismantling the re-election provisions contained in its constitution under Alberto Fujimori.

The February 2010 decision of the Colombian Constitutional Court preventing Álvaro Uribe from succeeding himself a third time suggests that the regional trend may have run into a roadblock. For all practical effects, Juan Manuel Santos’ recent win entailed a break with Uribe’s re-election aspirations. While the Court decision did significantly strengthen democratic rule, a more skeptical reading might argue that the episode also laid bare a crisis facing Colombia’s democracy and political system. That presidential aspirations were reined in by neither the legislature nor the party system, but rather by an independent court, is certainly significant. In an effort to push his reforms through, Uribe often argued that media and political pundits were sharply at odds with public opinion on the risks and benefits of a third term. Surely, the conflict between constitutional limitations and the majority view—which probably approved of a third Uribe term—was real. In essence, the episode reflected a structural weakening of the political and party system that only an independent court was able to contain, irrespective of public preferences.

The case in Venezuela is more extreme and, in a certain sense, the opposite of Colombia. While Hugo Chávez’s re-election efforts may be ostensibly similar to Uribe’s, significant differences exist. Chávez’s first attempt at introducing incumbent re-election was defeated by a well-organized civil society in a 2007 constitutional referendum. Chávez had to fall back on his tight control of the

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The Inter-American Dialogue is pleased to publish this working paper by Michael Penfold, associate professor at the Instituto de Estudios Superiores de Administración in Caracas, Venezuela. Penfold is a highly respected analyst who writes and teaches on a number of issues, including public policy and political economy in Latin America. Penfold was also formerly the executive director at the Consejo Nacional de Promoción de Inversiones (CONAPRI) in Venezuela from 1999 to 2003.

In this working paper, the nineteenth in a special series focused on the Andean countries of South America, Penfold examines the debate over incumbent re-election and removal of term limits in the Andean region. Specifically, Penfold seeks to reconcile the tasks of implementing far-reaching social and political change through maintaining power with the risks that consecutive re-election can pose to democratic governance. In doing so, Penfold analyzes the actions of current Andean presidents and asks whether the spate of removing term limits is the beginning, or end, of a regional trend.

The Dialogue’s aim in publishing these working papers is to stimulate a broad and well-informed public debate on complex issues facing analysts, activists, decision makers, and citizens concerned with Bolivia, Colombia, Ecuador, Peru and Venezuela. This paper seeks to offer a diagnosis of the current situation, with the goal of starting a dialogue about the appropriate policy prescriptions for dealing more effectively with the region’s challenges.

The working paper series is a byproduct of a working group project launched by the Dialogue in 2001. The Andean Working Group is comprised of select and diverse analysts and policymakers from the Andean region, other Latin American countries, Europe, Canada and the United States. The working group essentially serves as a “brain trust,” or core group of advisors, for the Dialogue on the Andean region, a top priority for the organization. The goal of the group is not necessarily to reach agreements or produce consensus documents. Rather, it is to generate fresh interpretations of the issues driving the region’s politics in order to shape thought and encourage constructive responses.

To date, the papers in this series have dealt with a wide range of topics, including the Colombian conflict, political polarization, civil-military relations, corruption, and human security. We are confident this paper will contribute to a deeper understanding of a critical situation in the hemisphere that is often discussed without the proper perspective or context. Penfold’s conclusions, however, do not necessarily reflect the views of the Andean Working Group or the Inter-American Dialogue.

We are pleased to recognize the assistance provided by the Ford Foundation and the Open Society Institute for our work on the Andean region and for the production of this report.

Michael Shifter
President
National Assembly to introduce an amendment extending the re-election prerogative to all elected posts. Once all his legislators were on the same page, Chávez then moved to hold a second referendum, which he won. Key in allowing him to prevail were the lack of judicial checks and balances and weak party structures of both government and the opposition.

Whether Bolivia and Ecuador—where the constituent assemblies convened by Evo Morales and Rafael Correa have introduced major political changes—will resist the trend is hard to say. Morales has suggested that he might aspire to extending the ability of Bolivian presidents to succeed themselves. Although Correa has yet to speak on the issue, the Ecuadorian opposition fears as much. In either country, such a change would require a constitutional amendment. In both, political parties are structurally weak and judicial checks and balances not strong enough. Accordingly, further efforts in this direction are to be expected.

At present, the region appears to be living a historic moment where electoral democracy is at odds with democratic rule. While the prevailing political systems are electoral democracies with strong popular support, efforts by presidents to impose a strict majority rule (by empowering the presidency to the detriment of other branches of government) will inevitably clash with the rule of law. In the long run, this may undermine democratic representation, power sharing and the basic balances required to consolidate democracy beyond mere ballot-casting formalities.

While the recent Constitutional Court decision in Colombia restores the chances of maintaining these balances, it also illustrates how hard maintaining the balance of power can be when party structures are weak and society is not strong enough to keep such temptations under control.

I. The Incumbent Re-Election Debate

Analysts agree that, at least from a strictly electoral point of view, incumbent re-election is not the end of democracy. As long as politicians can formally or informally compete under relatively equitable conditions, it is for voters to decide whether or not a change of government will result. Re-election may improve accountability and even keep politicians from resorting to subterfuges such as nominating cronies or family members in their stead. Chilean political scientist Patricio Navia, for example, argues that “the prospect of re-election implies that representatives can be ‘fired’ by constituents who feel they have not been served well. Efforts to introduce term limits were initially framed as promoting responsiveness. But it turns out that they do not have a significant effect in limiting political careers: officeholders who are term-limited simply switch to other elected positions to continue their careers. Nor do they bring about a renewal of the political elite, since many local political bosses turn to their relatives to fill their places or have stand-ins elected to occupy their seats until they are allowed to run again.”

To Navia, the issue is presidentialism rather than incumbent re-election. Presidential power should be limited and the independence of other branches of government enhanced so that chief executives cannot abuse their prerogatives, all of which can be done while allowing unlimited re-election.

The flaws of such an argument are obvious enough. As Steven Griner notes, “The longer a chief executive holds power, the more the delineation between the state and the ruling party becomes blurred. A third term erodes

the balance of power and weakens the author-
ty of autonomous legislatures, independent
judiciaries, neutral electoral authorities, and
competitive political parties.”3 This debate is
much less theoretical than empirical. In prin-
ciple, whether a country is democratic should
not be based on re-election limits alone. Does
incumbent re-election hamper power shar-
ing? As Griner correctly argues, incumbent
re-election weakens democracy in several
ways—it encroaches on the power of legis-
latures, undermines judicial independence,
and limits electoral competitiveness—but one
may also concur with Navia that such a result
is not always inevitable. Let us examine the
empirical evidence.

The statistical data are eloquent and show
that the fear of incumbent re-election is well-
founded. Paul Collier, who has researched
the issue in low-income democracies with
particular emphasis on Africa (where such
ambitions are common), finds that the like-
lihood of incumbents succeeding themselves
exceeds 85 percent.4 Since the chances of los-
ing are low, chief executives may rationally
conclude that twisting the constitution to
suit their aims is not such a bad idea. Collier
notes that such presidents often have a broad
arsenal of unfair advantages, including dis-
cretionary access to the public purse for
large-scale vote-buying, the power to weaken
the judiciary and legislatures to keep potential
competitors out, and the use of informa-
tion technology and coercion to threaten
voters and activists. He adds that country
income levels, the presence of valuable natural
resources, and complex ethnicity politics tend
to exacerbate the potential for abuse.

Daniel Posner and Daniel Young further
explain that, although since the nineties
elected African presidents have seemed
more amenable to accepting limits, those
who seek a third term or even indefi-
nite re-election remain common.5 In such
cases—and there are many—only incum-
bents faced with divisions in the ruling
party and citizen action have lost, such as
Frederick Chiluba in Zambia, Bakili Muluzi
in Malawi, and Olusegun Obasanjo in
Nigeria. Several others were successful, how-
ever, including Idriss Déby in Chad, Omar
Bongo in Gabon, Lansana Conté in Guinea,
Samuel Nujoma in Namibia, Gnassingbé
Eyadéma in Togo, and Yoweri Museveni in
Uganda—all thanks to ironclad control of
legislatures, high approval ratings and the
ability to buy votes on a national scale.

While the data about the issue in Latin
America are scarce, indicators point in
the same direction. Adam Przeworski and
Carolina Curvale’s study of first and addi-
tional re-elections based on a historical series
starting in the mid-19th century found that
only two incumbents ever lost an election:
Hipólito Mejía (Dominican Republic, 2004)
Corrales sees incumbent re-election as part
of the impact of former and “outsider” pres-
idents who set out to radically change the
prevailing system.7 Such presidents have
successfully changed constitutions by manip-
ulating institutions, weakening democratic
rule and buying votes on a national scale,
often helped along by a comatose party sys-
tem and an inherited economic chaos that has
the population feeling hopeless.

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3 Griner, Steven. “Term Limits can Check Corruption and
Promote Political Accountability,” Americas Quarterly, Spring
2009.

4 Collier, Paul. Wars, Guns and Votes. Democracy in Dangerous

5 Posner Daniel and Daniel Young. “The Institutionalization of
126–40.

6 Przeworski, Adam & Carolina Curvale. “Does Politics Explain
the Gap Between the United States and Latin America?” in
Fukuyama, Francis (Ed.): Falling Behind: Explaining the
Development Gap between Latin America and the United States

7 Corrales, Javier. “Volatilidad Económica, Debilidad de
Partidos y Neocaudillismo en América Latina” Journal of
Democracy (Spanish version), July 2009.
The empirical evidence is simply overwhelming. While incumbent re-election should in theory not hinder democracy (it might even improve accountability), in actuality it erodes the balance of power and fuels a personalistic approach to politics, to the detriment of political rights and power sharing. The evidence also shows a disquieting result: in developing countries, including Latin America, power sharing is best protected by limiting re-election, not by competitive elections. In other words, changes of government result from constitutional restrictions on the exercise of power, not from electoral processes. This truly substantial point should lead us to ponder the limitations of elections, the importance of constitutions, and the possible rationale for first and additional re-elections. The evidence further shows that electoral democracy and democratic rule are separate concepts that ideally should coexist, but in practice this is not always the case.

That power sharing should flow from limiting re-election rather than from electoral mechanisms is in itself revealing. An election may well be the best mechanism for choosing a candidate, but it does not ensure that others can compete or replace sitting chief executives who are also running. As such, elections must be designed to guarantee voters the ability to choose the best candidate (through distribution of information, policy debates, identification of core issues), and to ensure legitimacy (first vs. second ballots) and fair competition (election funding, obstacles to candidate registration). As power sharing appears to be a direct consequence of limiting re-election, a properly functioning rule-of-law democracy (i.e., separation of powers, limitations on public funds use, full exercise of political and civil liberties) is central to preventing incumbents from unilaterally changing the rules. In short, the evidence shows that the rule of law is more effective than elections at upholding power sharing.

II. The New Presidential Style

There is broad consensus that weak party systems and low citizen participation help account for the trend. Andean chief executives succeeded in amassing more power because representative democracy was in critical shape following the party system’s failure to rise to the social and economic challenges facing their countries. The response was charismatic leaders with a radical agenda. The neglected citizen demands they set out to address included issues of internal security (Colombia, Peru), social inclusion (Venezuela), and political and social empowerment (Ecuador, Bolivia).

Andean presidents quickly began to adopt a common style, one independent of political persuasions. This is a central element in explaining how they succeeded in gaining more legitimacy than other branches of government. Some analysts refer to their leadership style as neo-populist, meaning leadership with a strong support base oriented to radically changing existing institutions, irrespective of views on the role of the state in the economy. This label, while useful, loses sight of a key issue: the way these leaders use information technology and social policy to appeal to the population, thereby bypassing the crisis hobbling parties and legislatures. This new style has also been used advantageously by Luiz Inácio Lula da Silva in Brazil and former president Néstor Kirchner in Argentina.

In short, the past decade has seen the emergence of an innovative presidential style that succeeded in appealing to the people more directly and effectively than parties and representative institutions. The success of this approach goes a long way toward explaining re-election efforts and the political system’s inability to counter them.

Most of Latin America faces notorious poverty and informality issues. Commodity prices have helped some economies grow (Bolivia, Ecuador, Venezuela) and foreign investment has poured into sectors such as farming (Peru) or energy and mines (Colombia), yet labor markets remain burdened by a lack of dynamism and high levels of informality. Within countries, human development in some regions lags significantly behind others, exacerbating the internal development gap. In addition, the emergence of ethnic and native movements using mass action to assert political and social rights has brought about rising polarization. This socioeconomic change underscores the weakening of traditional channels—such as political parties—and the growing importance of less vertical, more socio-political action mechanisms.

One other fundamental change is technological in nature. Access to television, radio, mobile media and the internet among the disadvantaged has changed the way political messages are delivered and social demands channeled. Technological change and the fluid social relations afforded by increasingly informal labor markets have rendered traditional party channels inadequate and even unpopular. New technologies provide much more direct contact both among citizens and between message issuers and recipients. As a result, citizens demand more direct contact with politicians rather than with the institutions they represent, which they often perceive as abstract constructs devoid of content.

These phenomena have been extensively leveraged by presidents and have significantly shaped their style. The result has been a new breed of chief executive known as the tele-president, a sobriquet that refers to the intensive use of the mass media to build the presidential image without the filter of partisan middlemen. The use of participatory mechanisms such as grass-roots organizations and community councils that are called into action directly from the telepresidential screen illustrates just how important this development is. The new style stands in stark contrast to traditional partisanship and clientelism and opens up a symbolic new space where the president stands as the one political actor who—directly and alone—represents the interests of the people, often complemented by narrowly-targeted social policies and cash transfers.

This tendency is key to understanding the informal power of such presidents and their positive approval ratings in Bolivia, Colombia, Ecuador, and Venezuela. In Colombia, which has stood far apart from the revolutionary experiences of Bolivia, Ecuador and Venezuela, the new style is fundamental to understanding former president Uribe’s popularity, which far exceeded the accomplishments of his democratic security policy. Ideological differences aside, in style he closely resembled Chávez and Morales, both presidents who set out to radically transform their societies.

A very different trend prevails in Peru. Given his personal history, Alan García could well have been expected to again try his hand at neo-populism, this time without sacrificing the successful economic reforms of previous decades. Yet he adopted a more conventional style of working with other branches of government, including at the municipal and regional level. It is hard to tell whether the change stems from political restrictions or self-restraint intended to help democratic institutions consolidate. What we do know is that García has the lowest approval ratings in the region—perhaps as a result of not adopting the new style favored by his Andean peers. Surely, this does not guarantee that his successors may not try to insert the style into their governance—as Fujimori did—or
attempt to prolong their mandates. As for Colombia, it remains to be seen whether Santos will move to a style in the García mold, as befits his personality and civil service career, or if he will attempt to emulate his predecessor.

Incumbent re-election cannot be understood without reference to changes in presidential style, in turn a reflection of social and technological changes. Political parties have been at a loss as to how to react to the process, and they generally display a growing inability to refresh both their discourse and their policies. They are also slow to embrace new technologies and often reject them outright, afraid that they may improve the chances of new challengers. Yet without changes in this regard, presidents who attempt to monopolize the political stage will not find much opposition, and efforts to restrict them from staying in power (even through the popular vote) will not get much traction. Given the prevailing social and political conditions, the only obstacle to presidents who want to stay in power seems to be the rule of law.

III. Beginning or End of a New Trend?

The previous discussion points to some of the conditions that may help, or prevent, incumbent re-election in the Andean region. Conceding that weak party structures and the skillful manipulation of social policy and information technology have created fertile ground for such experiments, what are the institutional factors that can prevent incumbent presidents from succeeding themselves absent a strong political party system? Three conditions appear to help: (a) ironclad control of the legislature and a particular political coalition; (b) high poll numbers; and (c) control of the judiciary. Below is an examination of the presence or absence of these conditions in the region.

Bolivia

This may well become a textbook case of introduction of incumbent re-election without limitations. Morales’ constitutional reforms have succeeded in changing the political system with full electoral and popular support. He has consolidated a broad constituency and methodically increased his support over the course of two elections and a 2009 constitutional referendum. The current Constitution allows for immediate re-election and Morales has made it known that he would like to stay in office beyond this limitation. While tension among parties and the various regions is undeniable, Morales remains firmly in control of his coalition and is capable of pushing reforms through Congress, by means of referenda if necessary. Although he does not have absolute control of the judiciary, as in the past he can fall back on his popularity and leadership skills to neutralize and inhibit court decisions. Should these conditions remain in place, he may be expected to attempt to remove existing restrictions to immediate re-election.

Colombia

Uribe’s high poll numbers following his successful anti-guerrilla effort, personalistic style and ability to build a majority in Congress were key in overcoming political and legal hurdles to incumbent re-election. Despite fierce resistance from the opposition and even from members of his coalition who openly organized against the proposal, Uribe’s negotiating skills, especially in Congress, were central to moving his reform plans forward. However, despite strong pressure from the executive branch, the independent Constitutional Court defeated an idea that enjoyed political and popular support. The decision has undeniable significance for democratic consolidation, as it sets re-election limits for all future presidents and guarantees continuity and accountability without
sacrificing power sharing. Santos’ presidency is an unlikely setting for a resurgence of the re-election debate due to restrictions in his own coalition, Santos’ interest in showing independence from Uribe, and the precedent set by the Constitutional Court’s decision.

**Ecuador**

Correa successfully introduced major institutional and constitutional changes, including immediate re-election. There is no hard evidence of Correa wanting to relax restrictions with a view to a third term. Even if the possibility existed, Correa is still working to consolidate a level of leadership as strong as that of some of his Andean peers (as measured, for example, in terms of popularity and breadth of support), and an attempt at a third term could exacerbate friction within his coalition. In addition, while the Ecuadorian judiciary is not noted for independence, court decisions may face more pressure from Correa’s coalition than from his own direct interference. As such, his chances of going ahead with reform hinge on his approval ratings and consolidating control of his coalition.

**Peru**

Fujimori was able to introduce incumbent re-election because he had all the right ingredients: strong approval ratings after defeating the Shining Path guerrillas and a legislature and court system degraded by political and economic extortion. His collapse after winning a third mandate, brought about by military pressure and charges of corruption, gave way to a complex transition that led to the elimination of all forms of re-election. Significant efforts to increase the role of the judiciary (i.e., the Fujimori human rights trial) have substantially improved its independence. In addition, subsequent presidents with low approval ratings have often depended on laborious negotiations to pass legislative reforms. These changes, plus a context of high economic growth, make it unlikely for Peru to restage the experience—at least for now.

**Venezuela**

Chávez succeeded in changing the entire political system through constitutional reform, with popular support built on social programs financed by an oil boom. Yet, regardless of the clear electoral support from the population, this process has also served to enlarge presidential prerogatives to the point of eroding the balance of power. The combination of a highly popular president and the absence of checks and balances—nearly all National Assembly seats are held by pro-government legislators and the Supreme Court is packed with loyal judges—paved the way for the executive to dismantle existing constitutional arrangements, increase its prerogatives, and introduce incumbent re-election. Chávez’s first attempt at introducing incumbent re-election was defeated by internal division, as his coalition fought to include governors and mayors in the reform package. Subsequently, as the Supreme Court and Elections Council looked on, Chávez included these actors in order to broaden political and electoral support. His experience shows that aligning the ruling coalition is just as important as high popularity levels and concentration of power.

**IV. Conclusions**

While the landmark Constitutional Court decision cutting short Uribe’s re-election bid bolsters democratic rule and the power sharing principle in Colombia, it will not put an end to similar ambitions elsewhere in the region. Even if it does not necessarily portend the end of electoral democracy—elections and power sharing are related but different concepts—re-election beyond a second term substantially erodes power sharing. In Latin America, where few incumbents have
ever lost an election, power sharing is better protected by limiting re-election than by fair, equitable elections. As such, by ratifying the limits to presidential re-election, the Colombian Court’s decision constitutionally guarantees the continuity of power sharing. In countries like Venezuela, where unlimited re-election has done away with constitutional incentives to power sharing, it remains to be seen whether elections alone can promote such a result. That said, the evidence in developing countries does not support these hopes, particularly where the balance of power is practically nonexistent. Bolivia and Ecuador may in a few years promote similar reforms, although the former is more likely to succeed than the latter.

The Andean region has seen a significant upsurge in the number of elections and referenda being held, as well as an increase in the emergence of constitutional changes designed to push forward large-scale social and political transformations. However, by empowering the presidency above all else, popular support for these developments has weakened democratic rule and power sharing. In other words, broad support of major changes in the style of Andean presidents who seek to stay in power (with the exception of Peru) has had paradoxical results. This is why the issue is so controversial and its consequences for the Andean region so significant and uncertain.

Remarkably, Latin America’s most significant contribution to the theory of presidential constitutions—probably one of the few it has ever made—appears to be the need to limit re-election. This was the battle cry of uprisings in 19th-century Argentina and of the 20th-century Mexican Revolution. Latin America’s conflict-ridden history shows that elections did not suffice to guarantee power sharing and that constitutional limitations are required. Most Andean countries adopted these restrictions in order to improve the balance of power. However, the recent tendency to relax them (in whole or in part) has had a highly negative impact on democratic consolidation as measured in terms of power sharing. It has also renewed tensions among those who seek to stay on to guarantee the continuity of their policies and those who seek power in order to change the status quo. As such, political conflicts in the Andean region may soon begin to focus on the twin issues of democratic rule and power sharing, on the one hand, and continuity and unrestricted electoral democracy, on the other.

In conclusion, evident in this debate is the strain between moving to strengthen the executive in order to guarantee implementation and consolidation of often radical social and political change, and the possibility of making such changes while still upholding power sharing and democratic rule. While most reform promoters will argue that continuity is required to guarantee change, the risk of incumbent re-election is that it may instead encourage authoritarianism within electoral democracies. In essence, the debate is about short- vs. long-term consequences—about the choice between radical or gradual reform. While radical reforms may require a short-term dose of presidential strength, the long-term consequences may be highly negative unless the need to place limits on such strength by restoring the balance of power is accepted. Gradual reform, while inherently slower because of the need for negotiation and compromise, may find many hurdles on the way to effective implementation but will guarantee a better balance of power—even as it runs the risk of never being adopted. If the Andean region is to ensure the coexistence of electoral democracy, democratic rule, and power sharing, it will inevitably have to learn how to balance these risks.

“The risk of incumbent re-election is that it may encourage authoritarianism within electoral democracies.”


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