



Mariana Llanos and Leiv Marsteintredet

The Political Limits of Presidential Impeachment: Lessons from Latin America

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Impeachment is an important check on executive authority in presidential democracies. It is the constitutional tool for removing power-hungry presidents who threaten democracy, break the law, or get involved in corruption or other scandalous behaviour. Further, the mere existence of impeachment as a constitutional check on presidents may deter presidential misconduct. However, as recent examples in Latin America show, impeachment also opens the door for partisan interests and opportunistic political behaviour.

- Impeachment is a real threat for presidents without a legislative basis of support, while those with majorities are shielded, despite likely wrongdoings.
- In Brazil, the impeachment of President Dilma Rousseff in 2016 generated popular disillusionment with all political actors, paving the way for right-wing populist Jair Bolsonaro as president. In turn, despite a large and increasing number of impeachment requests on very serious grounds uncovered by congressional investigations, President Bolsonaro has thus far averted an impeachment process.
- In Peru, political polarisation, fragmentation, and continued presidential instability shows that impeaching a president may be an ineffective and even a counterproductive tool when the problem at hand is deeper and broader than the misconduct of the chief executive.
- Finally, whereas an impeachment may successfully remove a president, it does not provide a successor, often the vice-president, with a legitimate mandate or political backing to lead the country out of the crisis. It may actually reduce rather than enhance the legitimacy and governance capacity of the executive.

Policy Implications

External actors, such as the United States or the European Union, must be aware that impeachments are not an “easy fix.” On the contrary, they may not address personal misbehaviour; instead, deep structural problems may lie behind the severe political crisis upon which impeachments mount. Therefore, external actors need to decode the underlying crisis, which could be one of representation, and address it by supporting constructive solutions that emphasise the accountability of political actors and institutions as well as responsive public policies.

Prof. Dr. Mariana Llanos

Lead Research Fellow

mariana.llanos@giga-hamburg.de



Prof. Dr. Leiv Marsteintredet

University of Bergen

Leiv.Marsteintredet@uib.no

German Institute for Global and Area Studies (GIGA)

Leibniz-Institut für Globale und Regionale Studien
Neuer Jungfernstieg 21
20354 Hamburg

www.giga-hamburg.de/en/publications/giga-focus/

Impeachment: A Solution, But Not for All Problems

Public disaffection with politics has recently reached new heights in Latin America. With the end of the commodity boom, economic hardship became the norm, triggering a wave of discontent and protests in 2019. Corruption scandals fed the trend, particularly since the scandal involving the construction company Odebrecht burst in Brazil and spread across the region, with negative repercussions against political and business elites. On top of that, the COVID-19 pandemic deepened economic privations and nurtured increasing public discontent and anti-political moods through exposés of corruption in contracts, privileges in vaccination processes, collapsed health systems, and a halted education for millions of youths and children.

The goals and targets of popular discontent in the region are often diffuse, disorganised, and vary from country to country, but an underlying motivation is a general dissatisfaction with the political system, politicians, and their performance. However, in presidential systems such as those that prevail across the region, the chief executive and the party in government often end up on centre stage and their dismissal through impeachment is conceived as a concrete measure to bring a country out of crisis. In recent years we have seen impeachment attempts – both unsuccessful, such as in Chile (December 2019), Paraguay (March 2021) and Peru (December 2017 and September 2020), and successful in Peru (November 2020), as well as two presidential resignations in Peru, the first connected to troublesome president-congress relations (March 2018), the second to popular protests (November 2020).

However, impeachments do not fit as a solution to all problems, and even if they could theoretically fit to many, in practice they often do not operate as the constitution dictates. Impeachments are constitutional provisions that act as in-between-election accountability mechanisms against presidential misconduct. Importantly, they are decided by congressional majorities, which entails the risk that they may turn to be “[...] regulated more by the comparative strength of parties than by the real demonstrations of innocence or guilt,” as Alexander Hamilton, one of the Founding Fathers of the United States Constitution, wrote more than 200 years ago (Hamilton 1788).

There are three problems with presidential impeachment that have become visible in the last few years in Latin America. They can be summarised as follows.

First, the fact that presidents are judged by Congress makes it almost inevitable that impeachment processes became part of the tug of war of contending political forces. Although not entirely unavoidable, an impeachment loses legitimacy as a tool of accountability when politics, rather than arresting illegal behaviour, become the sole motivation for removing the president.

Second, an impeachment is a mechanism for removing one person from office; namely, the chief executive. If the problem to be solved is linked to that person alone, for example due to personal corrupt behaviour, an impeachment may do the trick. However, when the issue motivating an impeachment may be a general crisis of representation, dismissing the president is only a partial and inconclusive solution to a much wider and deeper problem, and may actually generate more instability down the line (Marsteintredet 2014).

Third, due to its strict requirements of super-majorities to pass, an impeachment may offer a president too much protection and thus eliminate the deterring

effects of impeachment. This may be the case in a strongly polarised polity – such as the US was with Donald Trump – or when a president enjoys a strong partisan backing that offers him/her an effective political shield (Pérez-Liñán 2007), such as in Brazil under the Temer presidency.

Two recent country cases illustrate the limits attached to the use of this instrument in Latin America. In Peru, two presidents have been impeached in connection to factionalism and political instability rather than illegal behaviour. In Brazil, the threat of impeachment has been an ineffective tool to stop criminal behaviour from the top executive.

The Peruvian Congress in Action – Too Much Impeachment and Too Few Solutions

In Peru, the presidential period that started in July 2016 and ended July 2021 had a rough start and only became more complicated as time passed. Brazil and Peru have been the countries hardest hit by the COVID-19 pandemic, leading the region in deaths per capita. Despite solid and relatively stable economic growth since 2000, public trust in politicians and political institutions in Peru has been extremely low. In 2016, 84 per cent of Peruvians thought that the country was run by a powerful group for its own benefit (Latinobarómetro 2016). That same year, a mere 16.5 per cent had some or a lot of trust in Congress, and 18.7 per cent showed the same level of trust in the government. In 2018, however, the percentage of trust in Congress and the government fell to only 8 per cent and 7 per cent, respectively (Latinobarómetro 2018). If there was a crisis of representation in 2016 when Pedro Pablo Kuczynski (also known as PPK) of the centre-right was elected, this crisis had severely worsened only two years later. Self-serving politicians, corruption, and impeachments tell part of that story.

PPK became president after defeating the populist right-wing candidate Keiko Fujimori by a tight 50.1–49.9 per cent in the run-off. However, Fujimori and her Fuerza Popular party obtained the undisputed leadership of the unicameral legislature of 130 members with a two-thirds majority, while PPK's party only won 18 seats. PPK and Fujimori were not far apart ideologically, but the fierce opposition led by Fuerza Popular quickly escalated the tensions between the executive and Congress and led to a tug of war driven by short-term interests. Just a few months after inauguration, PPK's administration was embedded in corruption allegations and the president suffered sharp drops in popularity, even though corruption allegations actually affected the wide political spectrum, including Keiko Fujimori and several former presidents. Fuerza Popular took advantage of the weakened president and used its institutional strength to obstruct legislation, to censure the government's ministers, and to bring down the cabinet in September 2017. Eventually, institutional stalemate escalated into claims for presidential removal on grounds of corruption.

In December 2017, a congressional investigation produced testimonies linking Kuczynski to a bribery scheme with the Brazilian company Odebrecht, and Congress proceeded to accuse him of “permanent moral incapacity.” The impeachment attempt failed, however, after PPK signed a deal with Keiko's estranged brother, Kenji Fujimori, leading to the abstention of ten deputies aligned with Kenji. The

contents of the deal became evident a few days later, when the president pardoned former president Alberto Fujimori (1990–2000), [1] provoking public outrage and denunciations from human rights organisations. However, the president could only briefly benefit from struggles between the Fujimori siblings and the ad-hoc deal he had made with Kenji. While the president further weakened in opinion polls, Congress investigations produced new revelations (but weak evidence) suggesting that the deal that the president had made with Kenji Fujimori was based on bribery. These revelations sealed PPK's fate and led to his resignation in March 2018, a few days before a decisive second impeachment would have thrown him out.

The case against PPK remembers the impeachment against Brazilian President Dilma Rousseff in the sense that the evidence was weak, and if anything, evidence of corruption was stronger against several of the accusers in the legislature than against the president. Removing the president on shaky grounds demonstrated the extent to which politicians put their self-interest above that of the political regime. While the removal of PPK may have satisfied some of the protestors in the streets, it did little to address the crisis of representation that affected the country. In addition, PPK's successor, Vice-President Martín Vizcarra, who himself had been accused of corruption in relation to the construction of an airfield, inherited the same difficult political situation – an overwhelming opposing majority in Congress and did not receive any mandate to govern.

In fact, Vizcarra also faced continued stalemate and undertook some bold actions that made him popular but did not save him from impeachment. He took advantage of a corruption scandal revealed by an investigative journalism portal, this time involving members of the judicial and legislative branches and launched far-reaching anti-corruption reforms. Expecting resistance, he appealed directly to the public proposing a referendum on the issue. In the short run, his move paid off with rising popularity ratings and success at the referendum in which voters approved the three questions he had proposed (restructuring the discredited council of magistrates, tightening restrictions on political party financing, and ending congressional re-election) and decisively rejected the one he opposed (restoring a bicameral legislature). In the long run, Vizcarra's anti-corruption drive would lead to a tug of war with Congress. The escalation eventually led to a controversial dissolution of Congress, which the Constitutional Tribunal accepted in a four-to-three vote. Subsequent congressional elections reduced disruptive Fuerza Popular to only 15 seats but returned a highly fragmented Congress with new or fringe parties and the displacement of the more established ones. Vizcarra maintained his popularity, paradoxically in part because he himself did not belong to any political party.

Despite a referendum and a new congressional composition in the midst of the pandemic conflicts and stalemate continued. In September 2020, President Vizcarra faced the first (failed) impeachment attempt to be eventually removed by a second one with a 105–16 vote on 9 November under accusations of corruption during his time as governor in Moquegua. In turn, his successor, Manuel Merino, who was the president of the Congress and a main driver for the impeachment, was forced to resign after only a few days as president as the impeachment of the still-popular Vizcarra created a public outrage and the largest demonstrations in many years.

In short, in the five years since 2016, Congress made several attempts and in fact impeached two presidents, a third president resigned after popular protests, and Congress was controversially dissolved and newly elected. If anything, execu-

¹ Alberto Fujimori was convicted to 25 years in prison for responsibility for infamous massacres carried out in 1991 and 1992 by members of the right-wing death squad Colina.

tive-legislative conflicts such as these have deepened public distrust, which should come as no surprise since an impeachment serves to hold a person, the president, to account. Further, these Peruvian impeachments have been weak in arguing for executive misconduct, which effectively converts them into votes of no confidence. However, a vote of no confidence coming from a distrusted Congress will not be accepted as a solution to any crisis.

The 2016–2021 presidential period ended with another close presidential election, one that was only officially concluded a month and a half after the day of the runoff. Voters were pushed to choose between two extreme candidates: left-wing candidate Pedro Castillo and right-wing Keiko Fujimori. Fujimori, who again lost by a very narrow margin, claimed that the election was illegitimate and the result of ballot rigging. Thus, following Trump's "fraud playbook" and accompanied by the established elites in Lima, Fujimori put democracy in a grave crisis, one that resembled her father's self-coup ("autogolpe") in 1992. The prospects for President Castillo, who assumed power without previous political experience and is extremely weak in Congress, are certainly not easy, with the ghosts of recent presidential instability looming on the horizon.

The Brazilian Congress in Action – Yet No Impeachment

In his third year in the presidency, Brazil's Jair Bolsonaro hardly needs any introduction. A former army captain and long-term backbencher in the Brazilian Congress, Bolsonaro was always a questioned figure due to his anti-establishment stance, disrespect for democratic institutions, and open defence of past dictatorships. Over the past year and a half, his negationist and anti-scientific approach to the COVID-19 pandemic has made international headlines. Bolsonaro's denialism not only left the anti-pandemic measures in the hands of other governmental institutions (namely, Congress and local authorities) but also actively contradicted containment measures that they pursued, such as social distancing, and even promoted unproven remedies, such as hydroxychloroquine. Bolsonaro's denialist position has been so open and his actions so coherent that it is difficult to separate any assessment of the pandemic from the president's responsibility. The numbers are not in his favour: Brazil's official death toll recently passed 550,000, a sad top to the list of pandemic-related scandals that intensified with the passing of time.

From an early stage, presidential actions and omissions spurred a number of impeachment requests against the president. In March 2020, when the pandemic burst globally, Bolsonaro was in a power struggle with Congress over control of a portion of the executive's budget and had called for demonstrations across the country in his support. (Gatherings prompted by the president later occurred several times as well, despite the pandemic getting more serious.) That initial action already motivated two dozen impeachment requests that qualified the president's denialism as "crime against public health" and his attacks on democratic institutions among the "crimes of responsibility" foreseen by the law regulating impeachment processes. By July 2021, the number of impeachment requests had reached 130. Even a super-petition for presidential impeachment had been submitted by an extended group of social movements and political parties in the left at the end of June, one that contemplated 23 crimes, a collection of presidential faults.

It is not uncommon for Brazilian legislators and citizens to submit impeachment requests to reveal the government's incompetence and wrongdoings (Llanos and Pérez-Liñán 2020). Before Bolsonaro, Dilma Rousseff was the president facing the highest number (a total of 68). Although most impeachment requests are destined to die in Congress, the alignment of citizen and partisan initiatives in time and frequency has been crucial for the outcome of past impeachment processes in Brazil. In the two successful impeachments of presidents Collor de Melo (1990–1992) and Rousseff (2014–2016), citizens' requests had skyrocketed and those of legislators had followed suit.

Indeed, although there seems to be sufficient ground to initiate impeachment proceedings against Bolsonaro, there has been no impeachment yet. Politics matter here. The president, who came to power sustaining an anti-political sentiment as well as promises to end entrenched corruption in politics, initially refused to form the government coalitions with congressional parties that had been the rule under previous presidents. Instead, Bolsonaro mainly invited technocrats, military officers, and radical politicians. However, when things began to get complicated, he changed course. In January 2021, with a death toll exceeding 212,000 people and a succession of COVID-related scandals, such as the shortage of oxygen and a consequent surge of deaths in Manaus, which closely pointed to the president's and his health minister's errors, the calls for presidential impeachment were revived. Bolsonaro understood that he needed to tighten his leverage in Congress and thus secured the presidencies of the two chambers and further political support from the *centrão*, a fluid group of opportunistic and power-hungry congressional parties. He achieved this through generous handing out of pork funds and ministerial positions, openly contradicting his electoral promises.

Through the congressional alliance the president has been avoiding impeachment: the president of the Chamber of Deputies – a *centrão* ally – is a key gatekeeper in the launching of such a process. However, this informal legislative alliance is unstable and Congress has other institutional instruments that may impact on the political chessboard as well. Despite Bolsonaro's attempts, he was ultimately unable to suppress the creation of a Parliamentary Commission of Inquiry (CPI) at the Federal Senate. Since April of 2021, this initiative of oppositional minorities has investigated the mishandling and omissions by the federal executive in the management of the pandemic. With televised hearings, the commission's works have been followed like a reality show from Brazilian homes, and they have triggered some unexpected outcomes for the president. In late June, the inquiry heard explosive allegations of corrupt dealings involving the procurement of COVID-19 vaccines by the health ministry, on which Bolsonaro had failed to act despite having been alerted. These allegations set a dividing line in the inquiry process because they compromised Bolsonaro's anti-corruption image, a crucial element of his electoral victory in 2018. Public outrage triggered mass anti-Bolsonaro demonstrations, demanding impeachment. A Supreme Court justice authorised that the attorney general's office opened an investigation into Bolsonaro's role in the vaccine corruption scheme.

There is precedent for the suggestion that parliamentary inquiry may have important consequences. In 1992, the swift and efficient work of such a commission compelled people to protest in the streets and eventually legislators to impeach President Collor de Mello (Cheibub 2010). Of course, legislators have always an eye on the public and their electoral prospects, and Bolsonaro's support has declined

(to 25 per cent in opinion polls) but still not collapsed as in previous successful impeachments. All in all, the CPI's works (as well as a potential trial in Congress) will give a sense of accountability to the citizens and some relief to those who suffered the government's misdeeds in the fight against COVID-19. However, the outcome is dependent on the evolution of the president's relation with opportunist allies in congress, with which Bolsonaro is still broking deals. As time passes, the likelihood that the president will be dismissed diminishes because the stage begins to be set for the presidential electoral contest in October 2022. However, with the threat of impeachment in the background, electoral politics will remain polarised, and Brazilians will face the two old alternatives: Bolsonaro's re-election vs. the return of ex-President Lula, Bolsonaro's hated opponent, to power.

Impeachments and Public Disaffection

Public disaffection with politics in general has been present in Latin America for a while. In 2006, Mainwaring, Bejarano, and Pizarro Leongómez analysed *The Crisis of Democratic Representation in the Andes*, and if anything, the crisis of representation, including that of political parties, has deepened and broadened beyond the Andean cases in recent years. The *Journal of Democracy* has dedicated its latest issue to the ongoing troubles of democracy in Latin America, labelling the issue: "Latin America erupts." There are many ways in which this disaffection has expressed itself: low turn-out in elections, reduced confidence in established political parties, increased political fragmentation, outsider or extreme candidates becoming popular and winning elections. As the cases of Peru and Brazil presented in these pages show, political fragmentation and extreme candidates often come together, as these are the only ones who manage to prevail or call attention among the general discredited and the exaggerated number of political offers. Impeachment is often the other side of the coin because, against this background, clashes between president and congress are not surprising.

Over the past four decades, 24 Latin American presidents have been dismissed from office prematurely. These presidential interruptions or presidential breakdowns (Llanos and Marsteintredet 2010) refer to presidents who have failed to complete their constitutionally fixed terms, often due to serious developments in the economy, social mobilisations, and political scandals. Legislators were decisive in at least ten of these episodes, as indicated in the table below. Presidents Collor de Mello, Pérez, Cubas, Lugo, Pérez Molina, Rousseff, Kuczynski, and Vizcarra were dismissed through impeachments or resigned when impeachment was becoming imminent. Presidents Bucaram, and Gutiérrez, both in Ecuador, were dismissed through impeachment-like procedures on grounds of incapacity and abandonment of post.

The first impeachments in the 1990s were viewed more positively than those today. Fernando Collor de Melo of Brazil, for example, was an outsider and neo-liberal populist, leading his country with a unilateral style in the midst of an economic turmoil. He ended up being investigated by Congress, isolated, and dismissed for corruption. This institutionalised process of presidential removal in Brazil contrasted with other coexisting ways of removing presidents, such as insurrections and coups (the second row in the table). The military did not play the role it had

in the past in these presidential falls, but coups were a decisive part for the removal of Presidents Mahuad, Zelaya, and Morales. By comparison, impeachment was assessed as a mechanism leading to democratic consolidation and accountability (Marsteinredet and Berntzen 2008).

Impeachments or Impeachment-like procedures	Collor de Melo (Brazil, 1992); Pérez (Venezuela, 1993); Bucaram, (Ecuador, 1997); Cubas (Paraguay, 1999); Gutiérrez (Ecuador, 2005); Lugo (Paraguay, 2012); Pérez Molina (Guatemala, 2015); Rousseff (Brazil, 2016); Kuczynski (Peru, 2018); Vizcarra (Peru, 2020)
Other Presidential interruptions	Siles Zuazo (Bolivia, 1985); Alfonsín (Argentina, 1989); Serrano (Guatemala, 1993); Balaguer (Dom. Rep., 1996); Fujimori (Peru, 2000); Mahuad (Ecuador, 2000)*; De la Rúa (Argentina, 2001); Rodríguez Saá (Argentina, 2001); Duhalde (Argentina, 2002); Sánchez (Bolivia, 2003); Mesa (Bolivia, 2005); Zelaya (Honduras, 2009)*; Morales (Bolivia, 2019)*; Manuel Merino (2020, Peru)

However, the most recent practice, which became apparent with the 24-hour express impeachment of President Fernando Lugo in Paraguay in 2012, shows impeachments operating in a way that does not seem to correspond to the letter and spirit of the constitution (Marsteinredet, Llanos, and Nolte 2013). On one hand, when impeachments are solely used with partisan motivation, they lose their legitimacy as a tool of accountability. They do not bring political stability either, as caretakers may be disliked or even rejected by people. The one-week tenure of Merino, successor of Vizcarra in 2020 in Peru, is reminiscent of the highly unstable days of December 2001 in Argentina, when President Rodríguez Saá, elected by Congress to succeed the failing President de la Rúa, had to resign within a week amid popular rage. On the other hand, when impeachment is on the table for good reasons, such as the incumbent being bedevilled by political scandals and misconduct, it still can fail as a reliever of the critical situation if the president controls a substantial share of legislative seats that protects him/her from any threat.

Thus, public disaffection can directly or indirectly lead to impeachments, but impeachment processes may feed such disaffection when they are unable to provide the expected answers. Since 2020, the pandemic has revealed layers of popular complaints, some of them in connection with the poor and corrupt performance of governments and chief executives, others with long-term state incapacities to provide basic services. If properly used, impeachments could help to keep the executive accountable, although they would be insufficient as an instrument when the whole political system is being questioned.

This year, Latin Americans took the streets again in several countries, such as Brazil, Colombia, Cuba, and Guatemala, to express their discontent and even anger for various reasons, and often demanding the president's resignation or impeachment. It is the task of observers and external actors, such as the United States or the European Union, to decode the underlying causes of each crisis and address it supporting constructive solutions that emphasise the accountability of political actors and institutions as well as responsive public policies.

Table 1
Presidential Interruptions in the Third Wave of Democratization

Source: Own Elaboration.

Note: *Coups.

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About the Authors

Prof. Dr. Mariana Llanos is lead research fellow at the GIGA Institute for Latin American Studies and has been the head of GIGA Research Programme 1 “Accountability and Participation” since 2015. She is also a professor at the Faculty of Economics, Law, and Social Sciences at the University of Erfurt. Her research revolves around the elected executive and examines under what conditions institutions constrain powerful presidents.

mariana.llanos@giga-hamburg.de,
www.giga-hamburg.de/en/team/11565263-llanos-mariana/

Prof. Dr. Leiv Marsteintredet is a professor and chair of the Department of Comparative Politics, University of Bergen. His research focuses on political institutions and constitutions in Latin America, in particular presidential instability and succession.

leiv.marsteintredet@uib.no, www.uib.no/en/persons/Leiv.Marsteintredet

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20354 Hamburg
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