

***REGIME CHANGE BY THE BOOK:
Constitutional Tools to Preserve Democracy***

How should democracies manage a crisis of leadership without provoking a crisis of regime? This question lies at the heart of this major comparative study of the legal tools used by ten different countries to navigate a democratic course through political storms. Based on recent cases of presidents and prime ministers confronting direct challenges to their claim to executive power in such countries as Venezuela, South Korea and Argentina, the study presents conclusions and recommendations for constitutional reforms to preserve democratic rule.

The report's premise is that, in order to avoid sliding backwards to authoritarian rule, democratic governments should take steps to ensure continuity of democratic government when political leaders face pressures, sometimes violent, to step down from power. All democracies have legal mechanisms, like impeachment and motions of no confidence, to remove elected executives from office, apart from the normal cycle of elections. Some are designed in a way that facilitates democratic stability, while others lack important safety features and thereby invite manipulation and potential abuse by those intent on thwarting popular will. The report offers a set of practical recommendations to politicians, their lawyers and advisors for constitutional reforms which would safeguard democracy during emergencies and further consolidate the rule of law. The report's authors review ten countries' experience with democratic change – Argentina, Canada, Nigeria, Romania, Russia, South Africa, South Korea, Spain, Thailand and Venezuela. These countries represent a range of democratic systems, legal traditions and experience with political crises and interruption of democratic rule.

The study was inspired by a landmark report on “Threats to Democracy: Prevention and Response,” issued in November 2002 by an international blue-ribbon panel of democracy experts convened by the Council on Foreign Relations. Co-chaired by former U.S. Secretary of State Madeleine Albright and former Polish Foreign Minister Bronislaw Geremek, the independent task force called on democratic governments assembled at the Community of Democracies meeting in Seoul, Korea to coordinate better their actions to facilitate quick, unified responses to threats to democratic rule. Among their recommendations, the panel's authors urged democratic states to review their own national legislation to ensure internal measures were in place to protect democracies from interruptions to constitutional rule.

Building from the task force's work, the Democracy Coalition Project examined four categories of legal regime change outside of national elections – recall and votes of no confidence, impeachment, succession, and criminalization of unconstitutional seizures of power. Among the report's recommendations, we suggest that presidential systems adopt a binding motion of no confidence mechanism that would allow a super majority of the legislature to remove an executive from office; narrowly tailored impeachment laws that forbid anyone convicted of a serious offense from holding public office in the future; clearly defined rules of succession, with at least two successors identified by position, and a transparent, democratic procedure for choosing a new leader if successors cannot

serve; specific timelines for special elections to replace leaders removed from office; and strict prohibitions against breaching constitutional order, with lifetime bans on holding public office for those found guilty of such an offense.

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