



Obama nominee: Corrupt foreign rulers have right to remain in office absent "judicial process"

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Arturo Valenzuela, Obama's nominee to be Assistant Secretary of State, falsely claims it was an illegal "[coup](#)" for Honduras to remove its corrupt would-be dictator, President Mel Zelaya, without providing more "[judicial process](#)," even though courts [said](#) it was perfectly legal. Obama has joined Cuban dictator Castro and Venezuelan dictator Chavez in [demanding that Zelaya be reinstated](#). He nominated Valenzuela despite his [reputation](#) as a [loud defender](#) of dictator Chavez. Obama, too, claims Zelaya's removal was "illegal," even though it was carried out on [orders of Honduras's supreme court](#), and ratified by Honduras's Congress, pursuant to [Articles 239 and 272](#) of the Honduran Constitution.

The Obama team's idea that officeholders have a right to "judicial process" before being removed from office, a right that even trumps contrary provisions in a country's constitution, is truly staggering. Many elected officials, like California's governor, can be recalled from office by voters at any time, without any proof of wrongdoing, and without any due process at all. For example, California Governor Gray Davis was duly replaced by Arnold Schwarzenegger in a voter-initiated recall, without any allegation or proof of any wrongdoing. If due process keeps corrupt Honduran leaders from being removed without a trial, then American politicians like Gray Davis logically can't be removed either.

Unlike the Honduran President, the U.S. president can only be removed by impeachment, but even impeachment does not require either "judicial process" or the "technical rules" required by due process "to protect persons accused of crimes." Moreover, requiring impeachment before removal is not a civil right or universal human right, but rather a privilege accorded certain officials to promote peculiarly American notions of separation of powers. Nothing in human-rights treaties or customary international law gives elected officials a "right" to remain in office until they are formally impeached, much less given a trial.

Moreover, Article 239 of the Honduran Constitution makes clear that Honduras's president [loses the right](#) to remain in office, without any need for impeachment, by seeking to perpetuate his time in office, or even merely proposing an end to term limits. To push that illegal referendum, Honduras's president [relied on aid](#) from a foreign dictator, Venezuela's Hugo Chavez. He [also](#) pressured public employees, fired military leaders who refused to help him violate the law (a decision reversed by the Honduran Supreme Court), and threatened citizens with the cut-off of public services if they didn't support him. His removal from office was clearly legal. (In any event, as a result of recent amendments, Honduras's constitution does [not contain](#) a well-developed impeachment mechanism.)

It is unbelievably arrogant for Valenzuela and Obama (who knows little about Honduran law) to claim that they know more about what is legal in Honduras than the Honduran Supreme Court. It is unbelievably arrogant for the Obama Administration to insist that Honduras reinstate its would-be dictator based on made-up principles of law that are contrary to both U.S. and Honduran law, and nowhere found in international law. It is a truly outrageous form of legal imperialism for Obama to insist that Honduras's democratic processes be subject to cumbersome restrictions that the U.S. refuses to observe within its own borders.

Obama also claims that Zelaya must be put back in power because of the "[universal principle that people should choose their own leaders](#)". Never mind that even publications that criticized the manner of Zelaya's removal, like the [Economist](#), have candidly admitted that Zelaya was [unpopular](#) with Hondurans, who overwhelmingly back the removal of their president — and that Zelaya was a bullying crook with approval ratings below 30 percent. In the [Washington Post](#), the [Wall Street Journal](#), and other papers, Hondurans have overwhelmingly supported his removal.

Apparently, Obama is determined to saddle Hondurans with Zelaya whether they want him or not, just because they once elected him. (Even though he radically changed his policy positions after being elected). Under Obama's reasoning, Richard Nixon, who was twice elected president, shouldn't have been forced to resign over Watergate, because that violated the American people's "universal" right to choose their ruler. And America's electoral-college system, which has resulted in four presidents being selected despite losing the popular vote, must be as "illegal," since it, too, limits the people's "right" to choose their ruler. Under Obama's reasoning, the UN and OAS could have slapped sanctions and a trade embargo on the U.S. after our Supreme Court decided *Bush v. Gore*.

What Obama really means is that presidents, once elected, have a universal right to rule their subjects, and to flout the constitution, as Zelaya did, without being subject to removal. This sounds disturbingly like the "divine right" to rule (without

following the law) claimed by medieval kings. (It's certainly not what Obama and I were taught at Harvard Law School).

But the entire purpose of constitutional checks and balances, is that even elected presidents can lose their right to rule if they violate their country's constitution or laws. In our constitution's impeachment process, the Congress removes the president from office for wrongdoing, even if he was elected by a landslide. In Honduras, the Congress [voted by 123-to-5 to replace Zelaya](#), including the vast majority of Zelaya's own political party.

Honduras did not use a formal impeachment process to remove its president because its constitution does not have a well-developed impeachment mechanism, [says](#) Latin American scholar Juan Carlos Hidalgo at the Cato Institute. But its unwieldy constitution does have other, less elegant means of removing abusive presidents: Article 239 [bans presidents](#) from continuing to hold office if they seek to extend their tenure, or merely propose an end to presidential term-limits. And Article 272 gives the [military](#) the power to enforce those term-limit provisions, which it did by executing a [warrant for Zelaya's arrest](#) issued by the Honduran Supreme Court.

(The military's law enforcement role is not unique to Honduras: in the U.S., federal troops were used to enforce a court order desegregating the schools in Little Rock in 1957, when the court's order was thwarted by the Arkansas Governor. When confronted with powerful officials who refuse to comply with the law, the courts cannot rely simply on a handful of U.S. marshalls, but rather must look to federal troops or the national guard).

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