1

Police

Authoritarian Enclaves in Democratic States

"I looked [then] President Dilma [Rousseff] in the eyes and told her she is the hope of more than 60,000 'Mothers of May' produced by my country. [But] she should stop celebrating the end of the dictatorship, because we live in a false democracy, a democracy that kills tens, scores, hundreds."[1] Débora Maria da Silva – the mother of a young black man killed by São Paulo's police in May 2006 and founder of Mães de Maio (Mothers of May), an organization of similarly afflicted mothers – routinely denounces what she calls the "democracy of massacres" (*democracia das chacinas*) meticulously executed by Brazil's Military Police forces. For da Silva, who lost her brother to state security forces under the military dictatorship and her son to police under democracy, Brazil's much-celebrated democratic transition did little to curtail the routine torture, extrajudicial killings, and massacres at the hands of the state.

Nora Cortiñas, a member of Argentina's Mothers of Plaza de Mayo whose son was disappeared under the military dictatorship, similarly reflected on the continuity of authoritarian coercive practices in democracy, observing that "the dictatorship ended and the military had to go back to the barracks." But, she noted, "the security forces have continuity. There is a long list of *desaparecidos* (disappeared) during constitutional governments … [Meanwhile] *gatillo fácil* ('trigger-happy' killings) increased because the police forces have more permissiveness – they're given carte blanche to act."[2]

[1] Remarks by Débora Maria da Silva at the event "Fue el estado: An International Call Against Impunity," New York City, June 1, 2016.
[2] Author interview with Nora Cortiñas, Castelar, Buenos Aires Province, August 29, 2017.

The manifest contradictions between well-documented patterns of police violence in Latin America and the promise of democracy to constrain the exercise of the state's monopoly of legitimate force within the bounds of the rule of law have been a compelling rallying cry for human rights activists in the region. Like Mães de Maio's memorial for "the invisible victims of democracy" (Movimento Mães de Maio 2019), Argentina's anti-police-violence group CORREPI keeps a running tally of what they call "the invisible repression of democracy" (Verdú 2009) – a count that intentionally begins in 1983, the year of Argentina's transition to democratic rule.

Long after the onset of the "third wave" of democratization (Huntington 1991), police institutions in many Latin American countries have constituted stubborn pockets of authoritarianism. Even as formal national democratic institutions flourished, patterns of coercion in many Latin American democracies have been characterized by widespread extralegal use of lethal force, arbitrary and discriminatory enforcement of the law, rampant corruption and predation, and weak or nonexistent external accountability. While many observers and scholars (e.g., Hite & Cesarini 2004; Pinheiro 1994) situate these patterns of violence within the history and legacy of the police forces' relationship to previous military dictatorships (as well as older historical processes), this book elucidates the ways in which such patterns of coercion are firmly rooted in democratic processes.

This book examines the politics of continuity and reform among coercive institutions under democracy. It asks why police forces in what are otherwise healthy democracies often exhibit sustained patterns of violence and corruption that are incompatible with democracy, and it investigates why these patterns persist and the conditions under which politicians choose to undertake reform.

The book draws on comparative analysis of periods of continuity and reform among police forces in Buenos Aires Province, Argentina; in São Paulo State, Brazil; and in Colombia, to demonstrate that the persistence of authoritarian coercive institutions is not the result of a failure of democratic processes, nor is it merely a set of structures and practices inherited from a previous period of authoritarian rule. Instead, police forces may emerge as authoritarian enclaves within otherwise democratic states as a result of ordinary democratic politics – citizens' claims-making and expression of demands for protection, as well as politicians assessing electoral incentives based on societal demands and political competition. As I argue in Chapter 2, when societal preferences over policing and security are fragmented, irrespective of political competition, reform

brings little electoral gain and carries the risk of alienating a powerful bureaucracy whose cooperation politicians need. Preference fragmentation thus favors the persistence of authoritarian coercive practices. Reform becomes likely, however, when societal preferences converge and incumbents face a robust political opposition, because politicians now face an electoral counterweight to the structural power of police. Paradoxically, then, even as coercive institutions in Latin America (and beyond) constitute an enduring blight on democracy in the region, democracy, too, may pose an important challenge for reforming coercive institutions.

THE PERSISTENCE OF AUTHORITARIAN POLICING AND ITS RENEWAL UNDER DEMOCRATIC RULE

The chapters that follow provide detailed accounts of the seamless continuity of police practices, structures, and personnel from authoritarian periods to democratic rule. While democratization brought considerable institutional change – including the enactment of significant military reforms and new constitutions – Latin America's transitions to democratic rule left police institutions largely intact.

But the remarkable persistence of police institutions in the face of regime change – from formal institutions such as rank structures and disciplinary systems to informal ones such as torture practices – should not be seen as an oversight, nor as vestigial remnants of previous authoritarian periods. Instead, this book demonstrates that the persistence of authoritarian modes of coercion in democracies results from a strictly democratic political logic. While previous periods of dictatorship gave birth to many current authoritarian coercive structures and practices of the region's police forces, they have been subjected to reproduction and renewal through ordinary democratic politics.

Accounting for the persistence of decidedly authoritarian modes of coercion in democracies requires understanding policing as a political resource that can be distributed toward electoral ends. Politicians' incentives to use the distribution of protection and repression to achieve political objectives in turn endow police forces with considerable agency to defend institutional prerogatives. As the primary entity to which the state delegates its monopoly of the legitimate use of force, police control a fundamental instrument of state making. This control over coercion endows the police with considerable structural power, enabling police to constrain the policy options available to politicians and raise the threshold

for reform. Absent an electoral threat, politicians are unlikely to undertake the risks of reforming, and potentially alienating, the police forces they ostensibly control. The problem for would-be police reformers in Latin America is that such electoral threats to political leaders that neglect to rein in violent, corrupt, and unaccountable police forces have, more often than not, failed to materialize.

A key reason that authoritarian coercive structures and practices are reproduced under democracy is that they are often the result of citizens' demands. Indeed, the challenge of reforming the police is that the types of police violence denounced by Débora Maria da Silva are actively demanded by many of her fellow citizens who, in their minds, are simply seeking protection from the state. Such demands are common throughout the region. Residents at a community security meeting in a low-income neighborhood in São Paulo, for instance, responded to an announcement by the local police commander that police had shot and killed a criminal suspect with applause and cries of "Thank God" (*Graças a Deus*).[3] Residents of Santo Domingo, Dominican Republic, meanwhile, are – according to the leader of a human rights organization – "tired of seeing so many muggings, so much robbery, [such that] you can't even go outside . . . People wish that human rights didn't exist here, and we recognize that. If you were to do a survey, they would say, 'Kill all the delinquents'."[4] Such societal contestation over the distribution of protection and repression results in the formation of fragmented preferences and demands that may render reforming the police electorally disadvantageous.

The enduring authoritarian patterns of coercion prevalent in many democracies – from extrajudicial killings and torture to politicized repression – thus cannot be attributed solely to the legacies of previous periods of authoritarian rule. While the failure to reform police at the time of transitions was an oversight of many Latin American democracies, policing in democracy can create electoral incentives and generate patterns of demand-making that reproduce authoritarian coercion irrespective of these legacies. As a reformist Brazilian police official remarked incredulously after the Constituent Assembly voted to maintain police structures intact during the transition to democracy, "the dictatorship

[3] A meeting of the local Community Security Council (CONSEG, Conselho Comunitário de Segurança) attended by the author in a low-income neighborhood in the northern zone of São Paulo in 2012.

[4] Author interview with anonymous leader of human rights NGO, Santo Domingo, Dominican Republic, January 14, 2015.

militarized the police and now democracy has consecrated this"[5] (see Chapter 3).

THE CENTRALITY – AND DISSONANCE – OF POLICE IN DEMOCRACY

Making democracy real entails the provision of meaningful security to citizens. As the entity to which the state delegates its coercive authority, police are central to this task. Policing shapes the construction of democratic citizenship through the distribution of protection and repression (González 2017). Deficient security provision results in constrained citizenship, wherein citizens lack the security necessary to engage in the basic political, social, and economic activities that are constitutive of citizenship. Unequal security provision, meanwhile, results in stratified citizenship, where access to security and protection from state repression are determined by existing societal hierarchies, such as race, class, and geography. The ways in which police perform their central task are thus highly consequential for democracy. As the veteran police scholar David Bayley put it, "a government that cannot provide minimal safety to its citizens cannot be called a government, let alone a democratic one" (Bayley 2006, 22).

Meaningful security, however, has proven elusive for much of democratic Latin America. Homicide rates in post-civil-war El Salvador exceeded the average annual deaths during the civil war, becoming the second highest in the world in 1996 (Call 2003, 840). Colombia's homicide rate, meanwhile, skyrocketed from 32 per 100,000 inhabitants in 1980 to 86 in 1992 and 127 in 1994 (Franco Agudelo 1997, 95). Even countries with relatively low homicide rates by regional standards saw a rise in crime and violence. Argentina saw its violent crime rate increase fivefold during the 1980s and 1990s (Ungar 2002, 259), while Costa Rica saw its homicide rate double from 5.3 in the mid-1990s to 10 in 2011 (UNODC 2013). Despite considerable variation across countries, Latin America remains the most violent region in the world, with a homicide rate that is four times the global average (UNODC 2013, 23).

In the context of the high rates of crime and violence that have characterized Latin America since transitions to democracy in the preceding decades, citizens' demands for improved protection have become increasingly urgent. Indeed, it would be difficult to overstate the significance of crime and violence for Latin America's citizens and democratic governments.

[5] "Polícia Civil perde a função preventiva," *Correio Brasiliense*, November 7, 1987, p. 5.

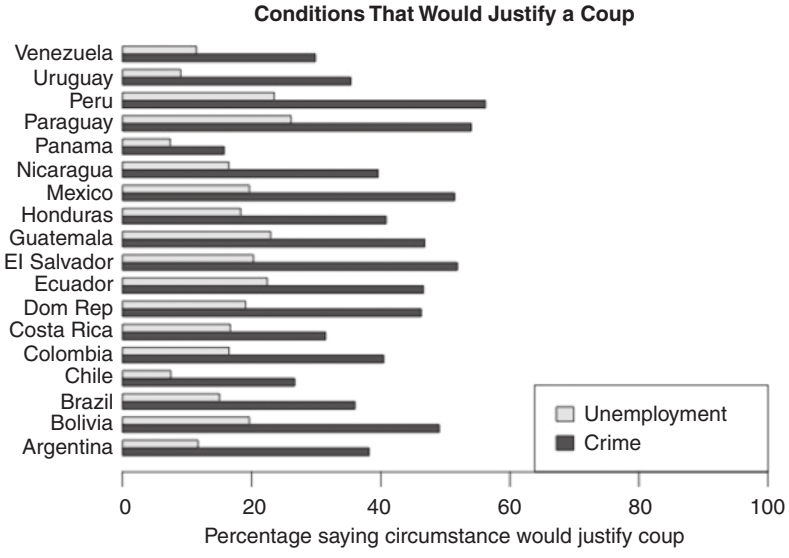

FIGURE 1.1 Comparison of the percentage of respondents expressing the opinion that high crime and high unemployment would justify "a military takeover over the state"
AmericasBarometer Survey 2012, Latin American Public Opinion Project (LAPOP)

Regional surveys such as the Latinobarometer and the AmericasBarometer have documented the growing concern of the region's citizens with crime and insecurity over the last two decades, in some instances overtaking every other issue identified by citizens as the most important problem facing their countries (Zechmeister 2014).

Just as urgent as citizens' demand for security, however, is the risk it poses for democratic stability. Indeed, many citizens appear to be highly skeptical about the ability of democratic governments to protect them and keep crime under control. In particular, a large proportion of citizens in the region seemingly believe that the military regimes of previous eras might be better suited for addressing the region's crime problem. Figure 1.1 shows responses to two survey questions asking respondents in Latin American countries about conditions that would justify "a military takeover of the state."[6] As we can observe from the chart, large groups of citizens – ranging from one-

[6] The questions are from the 2012 wave of the AmericasBarometer survey. The survey question asked, "Some people say that under some circumstances it would be justified for the military of this country to take power by a coup d'état (military coup). In your opinion would a coup be justified under the following circumstances?" For each circumstance (high unemployment,

quarter to more than half – in nearly all countries agree that "a lot of crime" would justify a military coup.[7] In comparison, far fewer citizens believe that high unemployment would justify a coup. Rather than a wholesale rejection of democracy, citizens in much of Latin America appear to doubt that democracy can keep them safe from crime and seem particularly willing to turn to undemocratic responses to address this problem.

This dilemma is not merely abstract. Scholars have provided ample evidence of how the failure to provide adequate protection for citizens undermines the broader quality of democracy and, potentially, its long-term stability. Davis (2006) and Call (2003) have provided compelling analyses of the challenges of reforming coercive institutions and providing security for citizens, as well as the threat the failure to do so poses for the durability of new democratic institutions in Mexico and El Salvador, respectively. Scholars working in Central America – which has the highest rates of violence in the region – have found that crime victimization and fear of crime lead citizens to express lower support for democracy and increased support for military coups (Carreras 2013; Cruz 2003; Pérez 2003, 2009). Moreover, recent work by Cruz (2015) found that police corruption, abuse, and outright criminality can decrease support for the incumbent administration and for the democratic regime overall.

Coercion, and the state institution primarily charged with exercising it, are thus fundamental components of democracy. Indeed, as Guillermo O'Donnell told us decades ago, "a state that is unable to enforce its legality supports a democracy of low-intensity citizenship" (O'Donnell 1993, 1361). Thus, in instances where "what citizens can see of the state" (González 2017) is a police force that not only neglects to protect them but is also unconstrained by the rule of law and accountability, democratic citizenship, as well as the quality and stability of democracy, are at risk of being severely eroded.

HOW TRANSITIONS TO DEMOCRACY LEFT POLICE BEHIND

Despite the importance of policing for democracy, Latin America's democratic governments have focused remarkably little on reforming the police, even as they prioritized overhauling other institutions. As I lay

a lot of crime, a lot of corruption), respondents had to agree or disagree with the statements that a military takeover of the state would be justified.

[7] This is a fairly consistent finding. For instance, since 2004, between 40 percent and 50 percent of respondents of each wave of the AmericasBarometer survey have declared that high crime would justify a military coup.

out in the chapters that follow, the decades following democratic transitions in Latin America saw political leaders enact new constitutions, reform militaries and court systems, and pass transformative policies in a range of policy areas. Police institutions, however, rarely underwent such processes of legislative reform. Venezuela's comprehensive police reform begun in 2006, for instance, was the first such effort in nearly 100 years (Gabaldón & Antillano 2007, 9). Similarly, the ambitious police reforms adopted in Buenos Aires Province in the late 1990s (discussed in Chapter 7) was only the second reform effort in a century (Barreneche 2007). Meanwhile, Colombian President César Gaviria's "*revolcón institucional*" (institutional shakeup), a transformative agenda to remake the Colombian state and rebuild its legitimacy through radical institutional changes, excluded the National Police (see Chapter 5). Finally, São Paulo's Military Police, one of the most lethal police forces in the Americas, has yet to undergo comprehensive structural reform more than three decades after the return to democratic rule (see Chapters 3 and 6). With the exception of Central American countries such as El Salvador and Guatemala, whose transitions to democracy saw the creation of entirely new police forces as part of peace agreements (Call 2003), police reform did not appear to be a priority for the region's democratic leaders.

The lack of urgency in reforming police following transitions to democracy stands in sharp contrast to the priority given to reforming another coercive institution – the military. Democratic leaders throughout the region sought to dismantle the political power, financial resources, coercive capacity, and intelligence apparatus of the armed forces that previously ruled over their countries (Diamint 1999; Pion-Berlin 1997). These essential reforms accompanied transitions to democracy or followed shortly thereafter. In some cases, the imposition of civilian rule over the once-dominant National Security Doctrine (Buitrago 2003; Pion-Berlin 1988) was itself the product of the political incentives created by democratization (Hunter 1997). While this emphasis on reforming militaries was wholly appropriate, the lack of reform of police institutions following transitions to democracy remains puzzling. As Chapter 3 on São Paulo State and Chapter 4 on Buenos Aires Province demonstrate, police forces were fundamental components of the machinery of repression under military dictatorships. While soldiers returned to the barracks following transitions to democracy, police officers returned to the streets, with their legal structures, repertoires of repression, and personnel left largely intact.

It is little wonder, then, that police forces throughout Latin America often bear little semblance to democratic ideals. Following the dramatic increases in crime and violence that accompanied the transition to democracy in many countries (Yashar 2019), police forces previously dedicated to political repression were ill-equipped to carry out their formal tasks of preventing and investigating crimes, a common pattern in new democracies (Tanner 2000). But police forces didn't only perform poorly at protecting citizens from criminal violence: they also remained a significant source of violence against citizens, largely unconstrained by the rule of law and accountability mechanisms. In Argentina and Brazil, the years following the end of military rule saw instruments of torture common under each country's dictatorship – the *picana eléctrica* (electric shock device) and *pau de arara* (a pole on which individuals are hanged upside down), respectively – become routine tools at the hands of police (Chevigny 1995). Killings carried out by police in Brazil each year not only exceed the total number of deaths at the hands of the state during the twenty years of military rule (Arias & Goldstein 2010, 2; Pereira 2005), but they also constitute a significant proportion of all homicides to this day (see Chapter 3). Even in less well-known cases, the numbers of citizens dying at the hands of police are staggering. In the Dominican Republic, human rights NGOs denounced in 2010 the killing of nearly 500 people by police, many of them summarily executed after they had already been detained.[8]

These extraordinarily high levels of police violence are exacerbated by the fact that, as the cases of São Paulo State, Buenos Aires Province, and Colombia show, characteristics such as race, class, or where one happens to reside are often stronger predictors of being subject to police action than is actual involvement in criminal activity. Rather than the rule of law, Latin American police forces seemingly adhere to the view attributed to patrolmen in various US cities in the 1970s by Wilson (1978): "What they deserve depends on what they *are*" (36). Moreover, the case studies also attest to the failure of other institutions of democracy to intervene to curtail these arbitrary and discriminatory policing practices. As was thoroughly researched by Brinks (2008), the Latin American police forces that most contravened the rule of law in their deployment of coercion were also the least likely to be held accountable by the judiciary. Chevigny (1999) argues further that opaque and weak disciplinary systems and nearly nonexistent oversight by executives and legislatures also serve to undermine accountability.

[8] "CNDH afirma van 478 caídos en 'intercambios de disparos'," *Hoy*, December 11, 2010.

Thus, even as democratic rule has taken hold throughout Latin America and endured far longer than previous democratic episodes, police bureaucracies continue to function as authoritarian enclaves. But while these practices and structures were honed under authoritarian rule, they are sustained and reproduced by democratic processes, as I argue in Chapter 2.

UNDERSTANDING COERCION: BEYOND REGIME TYPE

The experiences of Latin America's democratic governments thus demonstrate that regime type and police force characteristics don't always correspond in the ways we might expect. Indeed, democratic governments in Latin America (and elsewhere) have long struggled to organize police institutions such that they address citizens' demands for order and security and so that the deployment of coercion against citizens is applied equitably and constrained by law and external accountability. Security and policing in the region exemplify what Holston and Caldeira (1998) call "disjunctive democratization," which is characterized by the contradictions inherent in the institutionalization of national-level democratic politics, juxtaposed with the "privatization of justice, escalation of both violent crime and police abuse, criminalization of the poor, and massive support for illegal and/or authoritarian measures of control" (265).

Indeed, the empirical chapters in this book attest to a range of coercive patterns and practices that defy notions of the rule of law and democratic citizenship. In São Paulo and elsewhere in Brazil, police officers routinely operate death squads responsible for the off-duty killing of hundreds of citizens, in addition to hundreds of extrajudicial on-duty killings. In Buenos Aires Province, police officials of all ranks have operated a lucrative criminal enterprise based upon extensive predation of the citizenry. In Colombia, the police force was profoundly infiltrated by and complicit with drug-trafficking organizations, leading to rampant violence against the population. And throughout the region, police routinely deploy coercion in the service of political and private interests.

Because of the clear mismatch between the formal democratic institutions that have taken root in most of the region and the ways in which the region's police forces exercise the state's coercive authority, it is essential to develop a theoretical framework about coercion that is distinct from regime type. Such theorizing can help us better understand the choices of democratic political leaders and the great variation in the deployment of coercion among the police forces they ostensibly control. After all, to