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**THE RIGHT TO RESIST AUTHORITARIAN REGIMES
THROUGH DEMOCRATIC MILITARY COUP D'ÉTAT'S**

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Abstract

History is riddled with rebellions, coup d'états and oppressive authorities. When a government or a leader acts contrary to their democratic regime, especially when violations of human rights are involved, there should be a remedy to protect people and to protect their democratic regime.

The right to resist has been expressed through various forms; revolutions, rebellions and even coup de 'tats. This paper will focus on military coup de 'tats and how they have been used as a form to express the right to resist. Though this right is a protective right for the people themselves, the right can be, and arguably already has been, abused by those in power or coming into power to justify their means of taking this power.

This paper will consider the right to resist through military coups, the theory behind the right, how it has evolved and ultimately find how the right to resist is able to be used as a mechanism to justify a democratic military coup d'état by restoring a democratic regime.

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The text of this paper (excluding abstract, table of contents, footnotes and bibliography) comprises approximately 12560 words.

Subjects and Topics

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I Introduction

In June 2017, a helicopter attacked the Venezuelan Supreme Court with grenades and gunfire which was just one of many acts of protest occurring in the constitutionally unsound Venezuela.¹ This helicopter was flying a banner with “350 liberty” printed on it, referring to article 350 of the 1999 Bolivarian Republic of Venezuelan constitution which, translated into English, states:²

The people of Venezuela, true to their republican tradition and their struggle for independence, peace and freedom, shall disown any regime, legislation or authority that violates the values, principles and democratic guarantees or encroaches upon human rights.

Article 350 of the Venezuelan constitution encompasses the right to resist authorities that disregard democracy or encroach on human rights. The current constitutional crises in Venezuela is a contemporary example of why the right to resist is still an important right today.

History is riddled with oppressive authorities and, in reaction to these authoritarian regimes, rebellions and coup d'états. When a government or a leader acts contrary to the democratic regime, especially when violations of human rights are involved, there should be a remedy to protect people and to protect their democratic regime.

Different critics and theorists have varying definitions of what the right to resist encompasses. Tony Honoré, in his paper ‘The Right to Rebel’, describes this core right as “the right of an individual or group to resort to violence, if necessary on a large scale” to gain for oppressed groups or individuals a “change in government, structure or policies of the society to which they belong” or to “resist on behalf of individuals or groups who are attached to their way of life, a change in the government, structure or policies of their society” or to gain “the right to independence from the society in which they presently belong”³. Arthur Kaufmann explains in his paper that the right to resist should be considered an emergency right that should only be used in the most extreme of circumstances.⁴ The right can also be distinguished from the right

¹ “Helicopter attack against Venezuela’s Supreme Court – Assailant claims constitutional right to resist” *NSNBC International* (online ed, Denmark, 28 June 2017).

² Constitution of the Bolivarian Republic of Venezuela (Venezuela) 1999, Article 350.

³ Tony Honoré “The Right to Rebel” (1988) 8 *Oxford J. Legal Stud.* 34 at 36.

⁴ Arthur Kaufmann “Small scale right to resist” (1985) 21 *New Eng Rev* 571 at 574.

to revolution. Kaufmann claims there is an element of proportionality to the right to resist, otherwise it would be covered by revolution.⁵ Ginsburg and his colleagues argue that the right to resist, unlike the right to revolt, “has as its goal a restoration of a constitutional order, not its displacement... It calls for a return to normal”.⁶

For this paper, the ‘right to resist’ is defined as, a remedy and/or a justification for an individual or for groups to resist and overthrow oppressive or undemocratic authoritarian rulers or governments under extreme conditions for the purposes of facilitating democratic and structural change. When this paper refers to ‘democratic change’, and more widely, ‘democracy’, it refers to a regime where the decision makers and leaders are elected through fair and honest elections.⁷

It is not so easy to determine when rulers are authoritarian or repressive. There are no clear guidelines to suggest when they are acting in such a way. This paper will use the 1960 Turkish and the 2011 Egypt constitutional crises as examples that help define what ‘authoritarian’ and ‘oppressive’ actions by a ruler or government are. When this paper mentions rulers and governments as ‘authoritarian’ or ‘repressive’, it refers to acts that contradict democracy or violate human rights. Examples of what these are regimes do are; postponing elections to keep themselves in power, hindering opposition parties, refusal to address the issues being mass protested or violating their own constitution.

The right to resist has been expressed through various forms; revolutions, rebellions and even coup d'états. This paper will focus on coup de 'tats, more specifically, military coup de 'tats and how they have been used as a form to express the right to resist. Though this right is a protective right for the people themselves, the right can be, and arguably already has been, abused by those in power or coming into power to justify their means of taking this power. But can the right to resist be used to justify coup d'états? That is assuming that coups can ever be justified.

⁵ At 574.

⁶ Daniel Lansberg-Rodriguez Tom Ginsburg and Mila Versteeg “When to Overthrow Your Government: The Right to Resist in the World’s Constitutions” (2013) 60 UCLA Law Rev 1184 at 1193.

⁷ Samuel P Huntington *The third wave: Democratization in the late twentieth century* (University of Oklahoma press, 1993) vol 4 at 7.

It is counterintuitive to say a coup can be justified, but recent scholars have suggested that coups can be justified and even democratic. This paper will consider the right to resist through military coups, the theory behind the right, how it has evolved and ultimately find how the right to resist is able to be used as a mechanism to justify a democratic military coup d'état by restoring a democratic regime.

II The Political Theory Behind the Right to Resist

Social contract theory is defined by the Encyclopaedia of Political Theory as, “an approach to questions of political legitimacy and obligation that seeks to ground claims to sovereignty on an agreement among people to form a political community.”⁸ There is tension between Locke’s and Hobbes’ conceptualisations of social contract theory. Hobbes claims there is no right to resist, the social contract is complete, replacing former sources of authority⁹ and so, “there can happen no breach of Covenant on the part of the Sovereign; and consequently, none of his Subjects, by any pretence of forfeiture, can be freed from his Subjection.”¹⁰ In short, once a sovereign is granted the authority of a sovereign, they are immune to any illegality and claims of violation. Hobbes view is based upon the idea that there is no one to legitimately judge the sovereign outside of him.¹¹

Locke, on the other hand, theorises that all individuals have natural rights that are surrendered as part of the social contract, and believing that the enforcement mechanism of the social contract was through the people’s collective right to resist and revolt against the government if it were to violate the social contract.¹² Locke thought that revolution was more than a right, that it was a duty to prevent tyranny.¹³ Locke’s “specification of popular action as an enforcement mechanism for the social contract helped crystallise the intellectual underpinnings of the modern right to resist.”¹⁴ The American founders were greatly influenced by Lockean theory and it is clear to see this in the United States entrenched constitution and various state constitutions.

⁸ Toby Reiner “Encyclopedia of Political Theory” (SAGE Publications, Inc, Thousand Oaks, 2017).

⁹ Tom Ginsburg and Mila Versteeg, above n 6, at 1201.

¹⁰ Thomas Hobbes *Leviathan* (A&C Black, 2006).

¹¹ Tom Ginsburg and Mila Versteeg, above n 6, at 1202.

¹² John Locke *The Second Treatise on Government* (Aegitas, 2017).

¹³ Tom Ginsburg and Mila Versteeg, above n 6, at 1202.

¹⁴ At 1202.

III Substantive Aspects of the Right to Resist

The right to resist has various aspects that make it into an important protective right. This paper will follow on the assumptions of what most theorists agree upon, that the right to resist has a foundation in the law and, to better understand the core aim of this paper, it will discuss the substantive aspects involved in both evoking the right to resist and understanding the right itself. The following aspects are not entirely exclusive of the aspects of the right, but are arguably the most core aspects.

A Constituent Power and Self-determination

At the heart of the right to resist is the idea of self-determination. Self-determination is the idea that people have the right to determine their own destiny, in particular; their own political status and economic, social and cultural development.¹⁵ The right to self-determination is the external manifestation of the right to resist, while constituent power can be seen as the internal manifestation of the right to self-determination. These ideas link to the right to resist as being a form of constituent power, a root power the people have. This is because the right to resist is able to remedy citizens under oppressive and authoritarian governments that are not following the democratic regime they should be by causing legal alienation.

The term “legal alienation” represents situations where the law does not represent the will of the community. Examples of this were the extreme circumstances that occurred in 1960 in Turkey and in 2011 in Egypt during their constitutional crises. These circumstances involved the government ignoring the mass protests occurring on the streets, making them violent and hindering the countries abilities to hold democratic elections. This extreme lack of representation of the voice of the people justifies violations of the law to incite democratic change and even encourage this if the occurrence is so drastic.¹⁶

However, this form of constituent power is, and should be, limited. “The constituent subject does not possess the ability to engage in fundamental constitutional change at any moment, but only after the occurrence of abuses of power on the part of the government”.¹⁷ So while the

¹⁵ “Self-determination” (21 September 2017) Unrepresented Nations & Peoples Organisation <<http://www.unpo.org/article/4957>>.

¹⁶ Roberto Gargarella “The Last Resort: The Right of Resistance in Situations of Legal Alienation” (Yale Law School SELA Paper 23, Yale, 2003) at 1.

¹⁷ Joel Colón-Ríos “Five Conceptions of Constituent Power” (2014) 130 L.Q.R 306 at 324.

right to resist is, very broadly, at the heart of constituent power, the power is limited to very extreme cases where the right to exercise this power requires strong justification and strong abuse by the government, as discussed below.

The right to resist is also both a collective and an individual right:¹⁸

An individual cannot by himself have a right to self-determination, but he may have a right to rebel by virtue of his membership of a group (e.g. Palestinians) which has such a right.

Individually, a person has a right to resist the authoritarian regime they are governed by, but in order to express that right and justify the actions associated with that right, they must be aligned with a group, and the right becomes collective when the need to express arises.

B Secondary Right/Nature of the Right

Rather than a primary right, which is the most common nature of rights, the right to resist is a secondary right. This is because rather than preventing any wrong being done in the first place, the right only exists when wrong has already been done. The right provides a remedy for that wrong¹⁹. It is often referred to as the ‘last resort’ right, in that it can and is only invoked at the last resort, when all other possible legal means have been exhausted and when the government authority is so oppressive that there is no other option but to rebel and resist them. The right “involves actions that, under normal circumstances, are viewed as illegal or reprehensible”.²⁰ An example of this nature, is the German government’s instalment of a right to resist in Germany’s constitution after, understandably, World War II. Article 20 of the Basic Law for the Federal Republic of Germany states:²¹

II. The Federation and the Länder Article 20 Constitutional principles - Right of resistance:

- (1) The Federal Republic of Germany is a democratic and social federal state.
- (2) All state authority is derived from the people. It shall be exercised by the people through elections and other votes and through specific legislative, executive and judicial bodies.
- (3) The legislature shall be bound by the constitutional order, the executive and the judiciary by law and justice.

¹⁸ Honoré, above n 3, at 37.

¹⁹ At 38.

²⁰ Tom Ginsburg and Mila Versteeg, above n 6, at 1195.

²¹ Basic Law for the Federal Republic of Germany 1949 (Germany), Article 20.

- (4) All Germans shall have the right to resist any person seeking to abolish this constitutional order, if no other remedy is available.

Germany gives to their citizens the right to resist anyone attempting to violate or abrogate their constitution or democratic regime. It provides a remedy for these kinds of violations and attempts to abolish the regime when all other remedies have been exhausted. It is a last resort right for the citizens of Germany should any kind of exploitation and oppression occur again. There are various other constitutions that incorporate the right to resist in this way, such as France with Article 2 of their constitution, “The aim of all political association is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property, security, and resistance to oppression”²². The amount of countries with such constitutional provisions has continued to increase.²³

C Derived from Natural law vs. Positive law

The idea that the right to resist is derived from the concept of the natural state comes from the fact that the right traces all the way back to Ancient China²⁴. This natural-law derivation within the core of the right to resist, has carried on through to today, with many constitutions outlining the right to provide their citizens with the remedy to resist governments who are violating democracy and human rights. Honoré describes the right as “a moral rule, grounded in human nature which requires those who are conscious that their situation is intolerable”²⁵. This suggests that the right is rooted in a moral and human right to resist and from within the natural state. The UDHR preamble furthers this idea, stating “it is essential, if man is not to be compelled to have recourse as a last resort to rebellion against tyranny and oppression that human rights should be protected by the rule of law”²⁶. A moral right to be able to rebel against tyrannical power and oppression that violate at least human rights, should be able to be remedied.

Edward Rubin suggests that right to resist provisions are viewed as a “higher form of law” that “arises from some source beyond the government’s boundaries, binding the ruler as well as its

²² Constitution of France 1958 (France), Article 2.

²³ Tom Ginsburg and Mila Versteeg, above n 6, at 1217.

²⁴ Yulia Razmetaeva “The Right to Resist and the Right to Rebel” (2014) 21 Jurisprudence 758 at 759.

²⁵ Honoré, above n 3, at 40.

²⁶ Universal Declaration of Human Rights, preamble.

subjects”.²⁷ This higher form of law acts “as a control or a constraint upon the ruler”.²⁸ Under social contract theory, this higher rule of law sources from the voice of the people who imposes this law on the government through the social contract.²⁹ The right to resist, in its many forms, is a source higher law, acting as a control over government and ruling powers, but it is difficult to express for it lacks controlled mechanisms to do so.³⁰

D Justification needed to enact the right

Tony Honoré emphasises the importance of the need to justify enactment of resistance. “Justification is needed both for the pursuit of certain aims and for the use of violent means to achieve them”.³¹ This is because the right is of a secondary nature and should only be available if all other remedies have been exhausted or are unavailable³². Experts under UNESCO state that the right to resist is based on human rights, a moral right and that the means of resistance and rebellion must therefore be proportionate to the human rights that are being violated and exploited³³. These experts also discussed what would constitute as sufficient violations to justify a legal resistance, “a consensus was reached to the effect that colonialism, apartheid and genocide counted among the most serious crimes against mankind and should, therefore, meet with appropriate reactions on the part of the international community”³⁴.

But with this need for justification comes the issue of who will tell who when there is justification and whether there is an instance of legal alienation to justify this last resort. As Honoré reiterates, “the fact that rebellion may appear justified to the rebels does not give them the right to rebel”³⁵.

IV The Evolution of the Right to Resist

²⁷ Edward Rubin “Judicial Review and the Right to Resist” (2008) 97 Geo LJ 61.

²⁸ Rubin, above n 27.

²⁹ Rubin, above n 27.

³⁰ At 67.

³¹ Honoré, above n 3, at 44 and 67.

³² At 46.

³³ United Nations Educational, Science and Cultural Organisation “Violation of Human Rights: Possible Rights of Recourse and Forms of Resistance” (Meeting of Experts on the Analysis of the Bases and Forms of Individual and Collective Action by which Violations of Human Rights can be Combated, Sierra Leone, 1984) at 223.

³⁴ At 223.

³⁵ Honoré, above n 3, at 47.

A *History of the Right*

While there are both contemporary and historical theorists who argue the right to resist's existence or place in society, the concept of the 'right to resist' spans back centuries. The literature on the right to resist reveals origins in many civilisations, arguably deriving from natural law itself. The right to resist first appears as the beginnings of an idea in Ancient China³⁶ and over time flourished into a right of the people as seen in the American and French revolutions³⁷. As time has gone by, countries have put a 'right to resist' clause in various forms into their constitutions. This has been both as a protective measure for their country after going through some form of hardship, and as a retrospective measure for a ruler to justify their claim to power.

1 *Ancient China*

There is no exact date the right to resist came about, but the right is seen in ancient philosophies and texts from various countries of various times. In Ancient China, the *Huainanzi*, an ancient Taoism text from around 140 B.C., mentions the beginnings of a right to resist and revolt:³⁸

governments are instituted for the security of the people and when a government itself destroys security; the people have a right to overthrow the government

The great Chinese philosophical tradition of Confucianism, originating around 2500 years ago, had the thought of a right to resist within their people.³⁹ This thought is associated with Mencius,⁴⁰ a Chinese philosopher who, when asked if he believed regicide acceptable, responded with:⁴¹

A man who mutilates benevolence is a mutilator, while one who cripples rightness is a crippler. He who is both a mutilator and a crippler is an 'outcast'. I have heard of the punishment of the 'outcast Tchou' [an overthrown emperor], but I have not heard of any regicide

³⁶ Razmetaeva, above n 24, at 759.

³⁷ Tom Ginsburg and Mila Versteeg, above n 6, at 1188.

³⁸ David B Kopel "The Universal Right of Self Defense and the Auxiliary Right to Defensive Arms" in Kevin Yuill and Joe Street (eds) *Second Amend Gun Control Freedom Fear Am Const* (Routledge, 2017).

³⁹ Ronnie Littlejohn *Confucianism: An Introduction* (IB Tauris, 2010) at xix.

⁴⁰ Dennis Bloodworth *The Chinese Looking Glass* (Farrar, Straus & Giroux, 1980).

⁴¹ Arthur Waley *The analects of Confucius* (Psychology Press, 2005) vol 28.

In Confucianism, their thoughts were that by overthrowing a terrible ruler, the act was not regarded as committing a crime, but punishing a criminal.⁴² This thought of a right to resist is ingrained in political theory and ancient philosophical theory. Though it adapted slowly overtime, and has emerged in new forms, the right at its core, has remained very similar to the thoughts of Ancient Chinese philosophy. Overthrowing a ruler can be justified if this ruler has contradicted his people. This philosophy also suggests that the right is mandated by some form of higher law to constrain the government.

2 American Revolution

Influenced by Locke, the American founders cherished this right to resist, rooting it in natural law and attempted to meet the rights preconditions as much as possible through their own efforts to justify their revolt.⁴³ The American Revolution occurred in the late 1700's, due to conflict between residents of Great Britain's thirteen North American colonies and the colonial government who represented the British crown.⁴⁴ After 8 years of revolutionary war, the 'Americans' of the colonies won independence from the British crown.⁴⁵

To this day, various American states have rights to resist their governments within their states constitutions. The constitution of Texas states:⁴⁶

All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient.

America's second amendment right to bear arms is another constitutional form of a right to resist. The Second Amendment of the United States Constitution states, "A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed".⁴⁷ This amendment has been the subject of debate for a long time as some believe that the right gives individuals a constitutional right for U.S citizens to have a

⁴² Kopel, above n 38.

⁴³ Tom Ginsburg and Mila Versteeg, above n 6 at 1203.

⁴⁴ "American Revolutionary History" *History.com* (online ed, United States of America, 2009).

⁴⁵ *History.com*, above n 44.

⁴⁶ United States of America, Texas Constitution 1876, article 1, section 2.

⁴⁷ Constitution of the United States of America, Amendment II.

firearm, while others believe that because the right states, “well-regulated militia” that legal framers only intended for states to maintain a right to resist through the militia.⁴⁸

The right to resist features in many of the United States’ individual state constitutions and in different forms of their entrenched constitution. The United States has a strong entrenchment of the right to resist tyrannical rule, for it is a right they value strongly and deeply, originating from the time of the American Revolution.

3 *Coup D'états*

A coup d'état is the “sudden, violent overthrow of an existing government by a small group”⁴⁹ These coups can be staged by the military, which this paper is focusing on, by citizens, Police and even parts of government. Coups are usually a change in power, often resulting in similar tyrannical rule to the rule they overthrew and very rarely result in any kind of political, economic or social change for the country.⁵⁰ Traditionally, coups only usually occur when the country is facing political instability.⁵¹ Coups occur as the groups that intervene generally justify their behaviour as addressing the chaos and stepping in.⁵² This is particularly so with the military, who believe they are the “bulwark against chaos”.⁵³

An example of a coup is the ousting of Guatemalan dictator Jorge Ubico from power through popular protests.⁵⁴ Ubico appointed an associate to rule, who was quickly ousted also by a coup d'état when a combined civilian-military group took control over the government.⁵⁵ This military regime adopted a new constitution and enshrined a provision that justified their actions by stating in their constitution “[a]dequate resistance for the protection of the individual rights . . . is legitimate.”⁵⁶ By taking over power from a country’s regime, a coup d'état is staged and, as discussed below, this illegitimate taking of power can both be justified, but also abused.

4 *How the right to resist has evolved today*

⁴⁸ “Second Amendment” Legal Information Institute <https://www.law.cornell.edu/wex/second_amendment>.

⁴⁹ “Coup d'état” Encyclopædia Britannica <<https://www.britannica.com/topic/coup-detat>>

⁵⁰ Encyclopædia Britannica, above n 49.

⁵¹ Nikolay Marinov and Hein Goemans “Coups and Democracy” (2014) 44 Br J Polit Sci 799 Cambridge Core at 801.

⁵² Marinov and Goemans, above n 51.

⁵³ Above n 51.

⁵⁴ Tom Ginsburg and Mila Versteeg, above n 6, at 1214.

⁵⁵ At 1214.

⁵⁶ Tom Ginsburg and Mila Versteeg, above n 6, at 1215.

Today, the right to resist still exists. It has adapted itself and morphed into different forms that aren't always instantly recognisable as a right to resist. The right is seen in constitutions all around the globe, with most countries entrenching some form of the right into their constitutions⁵⁷ as this paper will discuss further below. It is also seen in constitutions through various rights and responsibilities for both the citizen and the government.

An interesting form the right to resist has taken, is through the form of judicial review. This doctrine, founded in the United States, has since been adopted in many jurisdictions around the globe.⁵⁸ The aim of judicial review is to “tell the ruler that it may not adopt certain courses of action that it wants to pursue.”⁵⁹ However, the issue becomes, why should the ruler obey? Judicial review requires some set of relationships between organisations to make sure they do, and ultimately, the idea of a “higher law” is taken seriously⁶⁰, especially when looking at histories of coups and revolutions.

Though the right is expressed in many forms, this paper focuses on the form of a democratic military coup as an expression of a right to resist. Using Lockean theory, the right to resist is a collective right the military uses to oust repressive authoritarian rulers and regimes to facilitate democratic procedural change to the country for its people who have suffered under this regime. This theory is discussed further on in the paper.

B A Dual-Function

Over time, the right to resist has manifested itself in a different form. It became used as a way to retrospectively justify a military coup that overthrew an oppressive government only to continue an undemocratic regime under their ruling.

The right to resist is both a forward-looking right and a backward-looking right. The right is forward-looking in that by including the right in a constitution, the governing state creates a promise to their citizens that they will not abuse their power or the people. The right is also

⁵⁷ Above n 6.

⁵⁸ Rubin, above n 27, at 63.

⁵⁹ At 62.

⁶⁰ At 62.

backward-looking in that it can retrospectively justify aggressive political overthrowing and establishments of new constitutional regimes.⁶¹

In Ginsburg's paper "When to Overthrow Your Government: The Right to Resist in the World's Constitutions", the authors formed two hypotheses as to why the right is adopted into constitutions. The first hypothesis is that "the right is adopted by democratic regimes particularly after democratic transitions"⁶². This occurs so governments or the new power can establish a "precommitment device that helps to coordinate the necessary popular response in cases of illegitimacy exercised or formulated by government authority"⁶³. The new government or authority can promise to its citizens that they will act according to popular opinion at the risk that if this promise is not committed to, that they citizens have the right to resist any violations made. This promise governments make should "facilitate coordination because it reminds citizens of their collective power"⁶⁴ and therefore this facilitates the aim of the right at its core, to protect and provide citizens the ability to resist and oppressive and authoritarian government.

The second hypothesis is that the right is "adopted in the aftermath of coups d'état"⁶⁵. This right can give the undemocratic coupmakers the power to justify their illegal actions in overthrowing previous authorities. This hypothesis is troubling in that it is arguably an abuse of the right to protect citizens from violent and oppressive governments and that it legally justifies illegal and often violent actions against a state. While something more common in the past, this abuse of the right still has some cause for concern today and has grounds within countries constitutions still today.

Ginsburg's and his colleagues' research finds that most commonly, the right to resist is adopted into countries constitutions retrospectively either after democratic transitions or, after coup d'états⁶⁶. Their research also shows that "rights to resist will be more common for countries that recently experienced a coup".⁶⁷ Using the right to resist to justify past violations of law

⁶¹ Tom Ginsburg and Mila Versteeg, above n 6, at 1189.

⁶² At 1190.

⁶³ At 1208.

⁶⁴ At 1209.

⁶⁵ At 1190.

⁶⁶ At 1190.

⁶⁷ At 1216.

has shown to be common within Latin America in the aftermath of coupmakers and revolutions. This is a non-democratic way of staging a coup d'état. The military are not expressing the people's right to resist as there is no democratic or procedural change that occurs after the coup is staged, and this can lead to the regime being worse off than before when the military usurp power for themselves.

The adoption of the right to resist retrospectively in the aftermath of coupmakers is explored below.

1 Ghana

In 1979, Flight Lieutenant Jerry Rawlings and a group of junior officers formed the Armed Forces Revolutionary Council (AFRC) and overthrew the reigning authority of Ghana, the Supreme Military Council (SMC)⁶⁸. The SMC were writing a popular constitution at the time of being overthrown and were transitioning the nation towards a democracy.⁶⁹ Rawlings gained full power over the country and introduced a right to resist into the constitution⁷⁰, effectively justifying his illegitimate coup and change to the constitution that had only been drafted just months previously.

2 Portugal

In 1926, A military coup occurred in Portugal, resulting in the *Estado Novo* gaining power and the countries eventual leader, Antonio de Oliveira de Salazar who singlehandedly wrote their new constitution in 1933⁷¹. "Salazar headed an autocratic dictatorship with the help of an efficient secret police...Portugal drifted and floundered under this repressive regime for several decades".⁷² Salazar's constitution was not well constructed. "The resulting document, ratified into law in 1933, was essentially a decorative fiction enumerating and delineating myriad rights that were never actually respected in practice".⁷³ In Salazar's biography, his constitution was shown to involve "many guarantees of civil and political rights, all of these were subjected to a number of conditions that were shamelessly exploited by the executive."⁷⁴ But interestingly,

⁶⁸ LaVerle Berry *Ghana: A Country Study* (Library of Congress, Federal Research Division, 1995) at 45.

⁶⁹ At 46.

⁷⁰ Tom Ginsburg and Mila Versteeg, above n 6, at 1214.

⁷¹ Eric Solsten *Portugal, a Country Study* (2nd ed, Library of Congress, Federal Research Division, 1994) at 169.

⁷² At 170.

⁷³ Tom Ginsburg and Mila Versteeg, above n 6, at 1214.

⁷⁴ Filipe Ribeiro de Meneses *Salazar: A Political Biography* (Enigma Books, 2009) at 106.

Salazar added a right to resist in his constitution with Article 8(19) “the right of resistance to any order which may infringe individual guarantees”.⁷⁵ Which appears to justify the Estado Novo, and ultimately Salazar’s, come to power in 1926.

3 Cuba

An example of the retrospective adoption of a right to resist to justify questionable actions of resistance is in the Cuban constitution of 1940. A military coup in Cuba in 1933, known as the ‘Sergeants Revolt’ overthrew the Cuban president Gerardo Machado⁷⁶. What followed, was a 7-year suspension of the Cuban constitution and in 1940, when the new constitution was established now under the rule of Fulgencio Batista, a new constitution was drafted which featured a right to resist which was able to justify the military coup that resulted in Batista’s come to power⁷⁷. In 1959, a very unpopular Batista was removed from power in a much more legitimate form of revolution⁷⁸. The 1972 Cuban Constitution now contains various articles that protects the people’s right to resist oppressive government rule, such as article 3:⁷⁹

In the Republic of Cuba sovereignty lies in the people, from whom originates all the power of the state...Socialism, as well as the revolutionary political and social system established by this Constitution, has been forged during years of heroic resistance to the aggression of every kind and economic war waged by the governments of the most powerful imperialist states that have ever existed; it has demonstrated its ability to transform the nation and create an entirely new and just society, and is irrevocable: Cuba will never revert to capitalism

The harm caused by these illegitimate resistances and rebellions in Cuba is clear when reading their constitution.

These coup d'états, and others like them, did result in a change of authority, but did not result in structural change. They did not result in the establishment of constitutional order, or a new and improved democratic regime, and therefore are not democratic coups nor can any use of the right to resist be used as a way of justifying these takeovers of power.

⁷⁵ Tom Ginsburg and Mila Versteeg, above n 6, at 1214.

⁷⁶ Louis A. Perez *Cuba and the United States: Ties of Singular Intimacy* (3rd ed, University of Georgia Press, 2003) at 193.

⁷⁷ Tom Ginsburg and Mila Versteeg, above n 6, at 1222.

⁷⁸ Perez, above n 76, at 240.

⁷⁹ Constitution of the Republic of Cuba 2002 (Cuba), Article 3.

C 'Democratic' Coups

In recent history, there has arguably been occurrences of what are being titled 'Democratic Coups', however by nature, coup d'états cannot be democratic. Coups at their very core are undemocratic. They are the often violent overthrowing of a ruler to take over power using force. However, there is literature, backed up by historical evidence and events, to suggest otherwise. Varol and Powell are just two of the various writers on this topic. Their papers suggest that though coup d'états are undemocratic and illegal, there are times when they are not completely antidemocratic and have democratic tendencies, and can be therefore justified.⁸⁰

This paper does not argue that coups are or can be completely democratic, but that some military coup d'états can be more democratic in direction than others and therefore can be justified through a right to resist oppressive and authoritarian regimes.

A democratic coup has the purpose "to effectuate structural regime change by facilitating fair and free democratic elections within a short span of time",⁸¹ rather than a typical military coup where the purpose is to take over control from the oppressive authority and maintain that control and continue rule.

Ozan Varol, in his paper 'The Democratic Coup D'état', provides seven attributes that, when satisfied, a military coup will amount to a 'democratic military coup'. The seven attributes to satisfy are as follows:⁸²

1. the military coup is staged against an authoritarian or totalitarian regime;
2. the military responds to popular opposition against that regime;
3. the authoritarian or totalitarian leader refuses to step down in response to the popular opposition;
4. the coup is staged by a military that is highly respected within the nation, ordinarily because of mandatory conscription;
5. the military executes the coup to overthrow the authoritarian or totalitarian regime;
6. the military facilitates free and fair elections within a short span of time; and
7. The coup ends with the transfer of power to democratically elected leaders.

⁸⁰ Jonathan M. Powell "An Assessment of the 'Democratic' Coup Theory" (2014) 23 Afr Secur Rev 213; Ozan O Varol "The Democratic Coup d'état" (2012) 53 Harv Int Law J 291.

⁸¹ Varol "The Democratic Coup d'état", above n 80, at 299.

⁸² At 295.

These attributes align with this paper's definition of a right to resist in that, in order to be a democratic coup, the military responds to popular opposition (resistance) against a oppressive or authoritarian regime with the purposes of restoring and facilitating structural and democratic change in that regime.

The military are conceptually democratic in their makeup alone. When they act for the popular opposition, they act as citizens enabled by their status as the military to successfully resist the authoritarian regime. Most militaries are made up of the country's citizens and are therefore the embodiment of the people's voice:⁸³

The military forces are comprised primarily of sons, daughters, neighbours, relatives, and friends-not paid professionals. After decades of national conscription, the military, in a very real sense, becomes the society.

When the government is corrupt and repressive, the military becomes the stable and non-corrupt institution that is unable to be corrupted by the repressive regime.⁸⁴

In Turkey, from a survey conducted in 2005, the military are the country's most trusted institution.⁸⁵ This is because of their compulsory enlistment for military service for citizens.⁸⁶

In many ways, the Turkish military was more egalitarian than civilian society. While the civilian administration valued cliques and connections, the military cherished merit regardless of accidents of birth.²⁵ Due in large part to compulsory military service, soldiers came from different socio-cultural backgrounds and ethnicities.²⁶ Indeed, in an era of unequal gender relations, several women were admitted as cadets to Turkey's War Academy in the Fall of 1955.²⁷ The diversity of the recruits led them to become more accountable and responsive to civil society.

This same reasoning is why the founders of the United States of America were sceptical about filling the military with professional soldiers as the founders viewed professional soldiers as "individuality and susceptible to identifying more with their leaders than with the general population."⁸⁷ These soldiers would be unlikely to sympathise with the general public and

⁸³ Varol "The Democratic Coup d'état", above n 80.

⁸⁴ At 303.

⁸⁵ Ersel Aydinli, Nihat Ali Ozcan and Dogan Akyaz "The Turkish military's march toward Europe" (2006) 85 *Foreign Aff* 77 at 78.

⁸⁶ Ozan O Varol "The Turkish 'model' of civil-military relations" (2013) 11 *Int J Const Law* 727 at 732.

⁸⁷ Deborah N Pearlstein "The Soldier, the State, and the Separation of Powers" (2011) 90 *Tex Rev* 797 at 842.

share their democratic values.⁸⁸ A military that is made up of citizen-soldiers rather than professional soldiers is more likely to align with the motivations of the state and general public rather than further an oppressive ruler for their own causes.⁸⁹ With this ability to align with the values of the general public, they are likely to empathise and exercise a military coup d'état⁹⁰ to establish democratic and procedural change and expressing people's right to resist authoritarian regimes.

A 'democratic military coup' is possible so long as they generally follow Varol's 7 aspects and ultimately have the purpose of establishing fair and free democratic and procedural change in the country they stage the coup in. Below is two examples of democratic military coups that were successful and mostly successful in helping re-establish democratic change by taking down authoritarian regimes and ultimately expressed the people's right to resist these regimes.

1 Turkey 1960

In 1960, a successful military coup in Turkey resulted in "expanded democratic rights" and furthered procedural and democratic change.⁹¹ For much of Turkey's history, the military have had a role to play in politics:⁹²

The Armed Forces have staged four coups, forced political leaders to resign, and acted as a *de facto*, if not *de jure*, fourth branch of the Turkish government. Their first direct intervention in republican politics occurred on May 27, 1960, when the military toppled an authoritarian government and installed democratically elected leaders.

In 1950, the Democrat Party was elected by a large majority into Parliament, removing the Republican People's Party from the seat they had held for the previous 27 years.⁹³ The Democrat Party, led by Prime Minister Adnan Menderes, quickly became authoritarian and oppressive:⁹⁴

⁸⁸ Pearlstein, above n 87.

⁸⁹ Varol "The Democratic Coup d'état", above n 80.

⁹⁰ Above n 80.

⁹¹ Özgür Mutlu Ulus *The army and the radical left in Turkey: military coups, socialist revolution and Kemalism* (IB Tauris, 2010) vol 97 at 4.

⁹² Varol "The Turkish 'model' of civil-military relations", above n 86.

⁹³ Varol "The Democratic Coup d'état", above n 80, at 323.

⁹⁴ Varol "The Turkish 'model' of civil-military relations", above n 86, at 734.

During the ten years it governed the Republic (1950–1960), DP suppressed the CHP-friendly press, forced disobedient civil servants, judges, and professors into early retirement, passed laws to quell political opposition, and exploited religion to influence the public.

The Democrat Party even enacted legislation before the next election to prevent an ousting from Parliament and to ensure they remained in power. The legislation stripped the Republican People's Party of their assets to make it challenging to run a campaign just before the election.⁹⁵ This was followed by a commission established by the Democrat Party to investigate activities done by opposition parties, censor media and impose criminal sanctions against anyone who undermined the commission.⁹⁶ The repressive behaviour of the Democrat Party caused the public to protest and so the Democrat Party ordered the military to intervene and open fire on the protestors.⁹⁷ The Military refused, siding with the wider public and staged the 1960 coup de 'tat on the 27th of May, dislodging the Democrat Party's government.⁹⁸

Following the 1960 coup de 'tat, the military seized power and committed to the public to establish a procedural democracy by holding fair and free elections quickly and when the elections were over, to hand over power to the newly elected leaders.⁹⁹

During the transition period between the coup and the election, the military established a committee of officers ranging in rank and headed by the highly respected military leader General Cemal Gursel.¹⁰⁰ The committee began drafting a new constitution for Turkey, appointing professors to begin the drafting.¹⁰¹ These professors declared that the Democrat Party had violated the previous constitutions with their actions during their rule, which justified and legitimised not only the drafting of a new constitution, but the military coup for this would protect the rule of law and prevent future breakdowns of the democratic regime.¹⁰²

⁹⁵ At 734.

⁹⁶ At 735.

⁹⁷ At 735.

⁹⁸ At 735.

⁹⁹ Varol "The Democratic Coup d'état", above n 80, at 326.

¹⁰⁰ Varol "The Turkish 'model' of civil–military relations", above n 86, at 735.

¹⁰¹ At 735.

¹⁰² At 735.

In 1961, the military successfully handed over power to the democratically elected leaders and the new constitution was accepted.¹⁰³ This new constitution gives the military authority to intervene with political affairs when needed for the military leaders are not accountable to political leaders.¹⁰⁴ The constitution:¹⁰⁵

also targeted what the military believed were the problems that led to the breakdown of Turkish democracy in the 1950s: abuse of government power, oppression of political dissidents, and a decay of the Republic's founding principles.

The 1960 coup d'état in Turkey has democratic tendencies for it encouraged democracy by the military 'stepping in' and ousting the authoritarian government and facilitating democratic change with elections, handing over power to the fairly and freely elected victors within two years of taking over. This coup fits into Varol's seven 'democratic coup' attributes perfectly.¹⁰⁶ Further to this, the military stepped in based on the "popular opposition" of the regime¹⁰⁷ which was a way for the Turkish people's right to resist a repressive regime and to facilitate a structural and democratic change in that regime to be expressed.

By installing the right to intervene in the new constitution, the military did however act as a 'self-interested actor' which is arguably undemocratically.¹⁰⁸ This issue is outside of the scope of this paper, for it is not concerned with the aftermath of a democratic coup but argues that the democratic military coup occurs and is a mechanism to express a right to resist authoritarian regimes.

2 Egypt 2011

In 2011, protestors in Egypt called for president Hosni Mubarak, who had been in power for three decades, to step down in relation to poverty, unemployment, government corruption

¹⁰³ At 736.

¹⁰⁴ Lily Rothman "A Short History of Modern Turkey's Military Coups" *Time* (online ed, United States of America, 16 July 2016).

¹⁰⁵ Varol "The Turkish 'model' of civil–military relations", above n 86, at 737.

¹⁰⁶ Varol "The Democratic Coup d'état", above n 80.

¹⁰⁷ At 328.

¹⁰⁸ At 327.

throughout the country.¹⁰⁹ In February 2011, Mubarak was ousted from power by the military.¹¹⁰

Like Turkey's Prime Minister Adnan Menderes, President Hosni Mubarak's 29-year term was authoritarian, repressive and corrupt.¹¹¹ The events that occurred in Mubarak's regime are very similar to what occurred in Turkey. Mubarak's party, the National Democratic Party (NDP) denied the opposition from accessing media and other resources for campaigning and forces journalists out of their jobs preventing the opposition from being able to run for elections on equal footing to the NDP.¹¹² The NDP also arrested opposition leaders:¹¹³

Consistent with the growing hostility towards civil society organizations, the Mubarak government dealt a debilitating blow to civil society, immediately prior to the 1995 elections, by arresting 81 members of the Muslim Brotherhood (Egypt's largest non-governmental civil association) and other Islamists on what are widely considered specious charges of "planning to incite armed rebellion," leading to the inescapable conclusion that the arrests were prompted to preclude participation in the upcoming elections.

The Egyptian administrative courts ordered that the results of the 1995 election results in 109 of the 222 electoral districts be invalidated for "electoral improprieties".¹¹⁴ The NDP refused to enforce the court orders.¹¹⁵ This repressive and dishonest behaviour by the NDP caused the public's disinterest in Egypt's parliamentary elections as the Egyptian people felt that the NDP's victory was inevitable and undemocratic.¹¹⁶ In 2010, voter turn-out was a sparse twenty-seven percent of Egypt's population.¹¹⁷

Along with the electoral fraud and repression, Mubarak also kept the emergency law put in place after the assassination of Egypt's former president, Sadat, which permitted arbitrary arrest, detention without trial and trials of civilians by a military tribunal reputable for "swift,

¹⁰⁹ "Timeline: Egypt's revolution" *Al Jazeera* (online ed, Qatar, 15 February 2011).

¹¹⁰ Varol "The Democratic Coup d'état", above n 80.

¹¹¹ At 340.

¹¹² At 340.

¹¹³ Charles Robert Davidson "Reform and Repression in Mubarak's Egypt" *Fletcher Forum World Aff* 75 at 86.

¹¹⁴ At 83.

¹¹⁵ Mona Makram-Ebeid "Egypt's 1995 elections: one step forward, two steps back?" (1996) 4 *Middle East Policy* 119+ *Global Issues in Context* at 131.

¹¹⁶ Varol "The Democratic Coup d'état", above n 80.

¹¹⁷ At 341.

reliable and severe” punishments with very few procedural safeguards.¹¹⁸ The emergency law also restricted the right to freedom of association by prohibiting the gathering of groups of more than five people.¹¹⁹ Because of this law, thousands of opposition members, media and even citizens were jailed and punished.¹²⁰

In late January, inspired by the revolts that occurred against President Zine el-Abidine Ben Ali in Tunisia, a large protest by the Egyptian public was staged in cities throughout Egypt which quickly turned violent with tear gas thrown by Police.¹²¹ Mubarak called on the military to intervene, but the military refused.¹²² On the 11th of February 2011, the military communicated to the Egyptian public that they were intervening for the protection of the country, declaring the military would supervise the new constitution and ensure that democracy would be restored and power would be handed over to the “free democratic community that the people aspire to”.¹²³ Just hours after this communication, Mubarak resigned and the Supreme Council of the Armed Forces took power over Egypt.¹²⁴ When Mohammed Morsi is declared the winner of the presidential election, the military pass on their power.¹²⁵

Just like the 1960 military coup in Turkey, the 2011 military coup in Egypt showed strong democratic tendencies. The military acted on the protests of the majority of the Egyptian public against Mubarak’s authoritarian and repressive regime to establish and facilitate a democratic and structural change of regime. The protests of the Egyptian people against the repressive authoritarian regime, and the protests and revolts in surrounding Arab countries inspired the military to intervene.¹²⁶ The combination of the protests and the military intervening because of them fit within this paper’s theory that a democratic military coup is an expression of the people’s right to resist. Mubarak’s authoritarian and oppressive ruling justified the people’s resistance against his rule and the military expressed their right and facilitated democratic and structural change.

¹¹⁸ At 341.

¹¹⁹ At 342.

¹²⁰ At 342.

¹²¹ At 342.

¹²² At 342.

¹²³ David D. Kirkpatrick “Egypt Erupts in Jubilations as Mubarak Steps Down” *The New York Times* (online ed, New York, 11 February 2011).

¹²⁴ Varol “The Democratic Coup d’état”, above n 80.

¹²⁵ “Egypt Uprising of 2011” (30 May 2016) Encyclopædia Britannica <<https://www.britannica.com/event/Egypt-Uprising-of-2011>>.

¹²⁶ “Egypt Uprising of 2011” Encyclopædia Britannica, above n 125.

As time went by, the procedural change created by the military intervention did not always prove to be so democratic.¹²⁷ Also like Turkey's 1960 military coup, the military of Egypt in 2011-2012 entrenched for themselves powers in Egypt's new constitution that would give them powers of the executive and legislature:¹²⁸

the Supreme Council of the Armed Forces issue[ed] a supplementary constitutional declaration that places severe restrictions on the powers of the incoming president and grant[ed] the Supreme Council of the Armed Forces sweeping legislative and executive powers and greater authority over the constitution-writing process.

These actions were quickly denounced by various pro-democracy organisations and activists.¹²⁹ Again, this issue is not within the scope of this paper but is an interesting trend that seems to be occurring in these democratic military coups.

D Importance today

The right to resist is still an important right today. There are still countries that currently struggle with maintaining democratic regimes and even countries that are currently protesting oppressive leaders and corrupt governments. This shift to democratic military coups as a mechanism to express people's right to resist authoritarian and oppressive governments is positive. Instead of abusing the right, the military are using it for the purposes it was created to achieve, as discussed above.

With democratic military coups, the citizens of countries in protest with oppressive regimes can exercise their right to resist through the democratically aligned military when there is no other apparent option to cause democratic and procedural change. Democratic military coups are therefore still important:¹³⁰

Military intervention may be the only available option to shepherd a nation through the tumultuous transition process to democracy because other methods of democratization have been blocked by the authoritarian or totalitarian regime

¹²⁷ Powell, above n 80.

¹²⁸ "Egypt Uprising of 2011" Encyclopædia Britannica, above n 125.

¹²⁹ Above n 125.

¹³⁰ Varol "The Democratic Coup d'état", above n 80, at 299.

One such country that is currently protesting an authoritarian and repressive regime is the Bolivarian Republic of Venezuela.

1 The 2014-2017 Venezuelan Constitutional Crisis

Venezuela is divided into 'Chavistas', followers of the late President Hugo Chavez, and the 'Opposition' which are those who want the eighteen-year rule of the United Socialist Party (PSUV) to end.¹³¹ When Chavez died in 2013, Nicolas Maduro of the PSUV party was elected Prime Minister on the promise to continue the policies of Chavez.¹³² The opposition claim that the PSUV party has "eroded Venezuela's democratic institutions and mismanaged its economy" while Chavistas claim the opposition of being "elitist and of exploiting poor Venezuelans to increase their own riches".¹³³ Maduro also claims that the opposition is conspiring with the United States of America and other countries to "destabilise" the country.¹³⁴ Venezuela is also currently experiencing a hindering economic crisis, which Maduro is claiming relates to a "U.S-backed capitalist conspiracy".¹³⁵

Political instability in Venezuela reached a peak when Maduro aligned with the Supreme Court magistrates who ruled that the Supreme Court would take over the legislative powers of the opposition-led National Assembly.¹³⁶ This move was condemned by the National Assembly as an attempt to establish a dictatorship.¹³⁷ Despite the Supreme Court reversing its ruling days after, extreme distrust of the court remains, and violent protesting has continued.¹³⁸ The constitutional crisis continued when on May Day, Maduro announced there would be the convening of a constituent assembly and creation of a new constitution, for Maduro claimed the opposition were attempting to overthrow his elected government illegally and that this would be a move to restore peace to the conflicted country.¹³⁹ This process of setting up a constituent assembly would delay the regional and presidential elections, which Maduro is

¹³¹ "Venezuela Crisis: What is behind the turmoil?" *BBC News* (online ed, United Kingdom, 4 May 2017).

¹³² BBC, above n 131.

¹³³ Above n 131.

¹³⁴ "Venezuela's crisis explained from the beginning" *Al Jazeera* (online ed, Qatar, 2 August 2017).

¹³⁵ Al Jazeera, above n 134.

¹³⁶ Above n 134.

¹³⁷ Above n 134.

¹³⁸ BBC, above n 131.

¹³⁹ Above n 131.

expected to lose¹⁴⁰, leaving Maduro in power indefinitely.¹⁴¹ This constituent assembly, which in the way Maduro has set up the elections for it, will mostly be made up of his supporters, in theory could hold even more power than Maduro has now with the ability to legislate and even cancel the next elections.¹⁴² Leader of the National Assembly, Julio Borges called this move by Maduro a “scam to deceive the Venezuelan people with a mechanism that is nothing more than a tightening of the coup in Venezuela”.¹⁴³ The opposition boycotted the vote and continued their street protests, while government workers and the poor who receive subsidised foods were pressured, even threatened, to vote or lose their jobs and subsidies.¹⁴⁴ The vote has been treated with scepticism:¹⁴⁵

The election’s rules were heavily biased in favour of Maduro’s government. Instead of “one-person, one-vote,” every municipality in the country elected one delegate and state capitals elected two, no matter the size of the town or city. In addition, a proportion of delegates was reserved for selection by members of specified organizations such as students, workers and indigenous groups. This helped ensure that a larger number of delegates would come from constituencies favourable to Maduro, even if the opposition participated.

The vote lacked safeguards normally seen in elections and only 42 percent of people registered to vote, voted.¹⁴⁶ The actions by Maduro resemble the actions of the repressive and authoritarian regimes of Mubarak and Menderes.

2 International Response to Maduro

In the international realm, 40 countries have rejected Venezuela’s results of the constituent assembly for the actions of Maduro and refuse to recognise it as a legitimate democratic body.¹⁴⁷ The European Union’s high representative for foreign affairs Federica Mogherini stated that the EU would not recognise the new constituent assembly for “concerns over its effective representativeness and legitimacy”.¹⁴⁸ She then added that “The European Union and

¹⁴⁰ Jennifer L. McCoy “Venezuela’s controversial new Constituent Assembly, explained” *The Washington Post* (online ed, United States of America, 1 August 2017).

¹⁴¹ BBC, above n 131.

¹⁴² McCoy, above n 140.

¹⁴³ BBC, above n 131.

¹⁴⁴ McCoy, above n 140.

¹⁴⁵ Above 140.

¹⁴⁶ Above 140.

¹⁴⁷ Sibylla Brodzinsky and Daniel Boffey “40 countries protest Venezuela’s new assembly amid fraud accusations” *The Guardian* (online ed, London, 2 August 2017).

¹⁴⁸ Guardian, above n 147.

its member states are ready to gradually step up their response in case democratic principles are further undermined and the Venezuelan constitution is not respected.”¹⁴⁹ Internationally, Maduro’s actions are being condemned and declared undemocratic.

3 *How Venezuela is resisting Maduro*

In relation to a right to resist, the opposition and various groups of citizens in Venezuela are fighting back against the Maduro regime. The helicopter attack mentioned at the beginning of this paper was led by Oscar Alberto Perez, a member of Venezuela’s forensic police.¹⁵⁰ In a video posted to Instagram, Perez explained their group as a “coalition between military functionaries, police functionaries, and civilians in search of harmony and against this criminal and transitory government”.¹⁵¹ Perez justified his and other’s actions through their right to resist an undemocratic government under article 350 of the Venezuelan constitution.

Along with Perez’s coalition, there is a large group of protesters against Maduro’s regime in Venezuela who call themselves “La Resistencia”, ‘The Resistance’.¹⁵² They are described as an “army of heroes willing to sacrifice their lives for democracy”.¹⁵³ The Resistance is made up of thousands of young Venezuelans, most between the age of 20 and 25. They are at the frontline of the protests, throwing rocks and Molotov cocktails and fireworks at Venezuelan law enforcement, claiming they will do “whatever it takes” to win the fight for democracy against Maduro.¹⁵⁴ The Resistance are inspired by article 350 of the constitution, claiming their civil disobedience is protected by their right to resist Maduro’s oppressive dictatorship.¹⁵⁵ They operate independently from the Opposition, sometimes even causing chaos for the opposition, and are inspiring other Venezuelan citizens who cheer and applaud them as “anonymous heroes struggling for freedom”.¹⁵⁶

4 *The Venezuelan Military*

¹⁴⁹ Above n 147.

¹⁵⁰ NSNBC International, above n 1.

¹⁵¹ Above n 1.

¹⁵² “Meet ‘The Resistance’: Venezuela’s frontline protest army” *BBC News* (online ed, United Kingdom, 27 July 2017).

¹⁵³ Sabrina Martin “Meet Venezuela’s “Resistance:” An Army of Heroes Willing to Sacrifice their Lives for Democracy” *Panam Post* (online ed, Florida, 23 May 2017).

¹⁵⁴ Martin, above n 153.

¹⁵⁵ Above n 153.

¹⁵⁶ Above n 153.

The military in Venezuela function differently to the military of Egypt and Turkey. They are unlikely to stage a coup and express the voice of the opposition or the resistance for the military is corrupt due to Maduro's reign. When protestors took to the streets over starvation, Maduro put the Venezuelan Armed Forces (the military) in charge of the country's food supply.¹⁵⁷ This has led to "food trafficking" where the military hold illegal markets selling bags of food for 100 times the price of government priced rations and as a result, food is not getting to those who need it most.¹⁵⁸ "By putting the military in charge of food, Maduro is trying to prevent soldiers from going hungry and being tempted to participate in an uprising against an increasingly unpopular government".¹⁵⁹ The Venezuela military has a history in coups against the government and Maduro has already jailed military officials he believed were conspiring against him.¹⁶⁰ Maduro has made the military complicit in the suffering of the Venezuelan people and has also given the military incentive to support his power by giving them the means to help their families survive.

The people who make up the high rankings of not only the military, but also the government, make the military corrupt and unlikely to step in for the people protesting in Venezuela:¹⁶¹

Top government posts ranging from ministerial positions to directors of state oil company PDVSA are held by former military officers - many of whom participated in a failed 1992 coup that made Chavez famous and fuelled his meteoric rise to power.

Throughout Hugo Chavez's rule, he rewarded the military, of who he was a former general, with political positions and excessive wealth and benefits.¹⁶² The military has been corrupt for years, so the people of Venezuela are uneasy to trust the military since Chavez's rule and would be surprised if the military were to intervene for their rights.¹⁶³

¹⁵⁷ Hannah Dreier and Joshua Goodman "Venezuela military trafficking food as country goes hungry" *Associated Press* (online ed, New York City, 28 December 2016).

¹⁵⁸ Dreier and Goodman, above n 157.

¹⁵⁹ Above n 157.

¹⁶⁰ Above n 157.

¹⁶¹ Girish Gupta "All eyes on Venezuela military after protests, vote" *Thomson Reuters* (online ed, United States of America, 2 August 2017).

¹⁶² Raul Stolk "Here's Why Venezuela's Military Prefers Chaos to a Coup" *Daily Beast* (online ed, New York, 8 September 2017).

¹⁶³ Gupta, above n 161.

Though not the country's official military, the Resistance could arguably as effective as the Military in staging a coup. However, they lack leadership and authority, and though may be able to take down the authoritarian Maduro, they would unlikely be able to facilitate democratic change within Venezuela. The military in Venezuela would, if not so corrupt and afraid of Maduro's rule, be able to intervene on the basis of popular opposition against Maduro's authoritarian regime and facilitate democratic change.

V How Can a Democratic Military Coup d'état Successfully Express a Right to Resist?

A democratic military coup is an important mechanism to express one's right to resist. When there is a repressive authority individually it is difficult to express resistance towards this regime, but when there is an organised collective, made up of those citizens who share the violation of the regime, a democratic military coup is a strong mechanism to successfully express this right and facilitate change.

Using Varol's 7 aspects of what makes a coup a democratic coup¹⁶⁴ as a spring board, this paper outlines various aspects that explain how a democratic military coup can be used to express their people's right to resist an authoritarian regime. Due to its contemporary relevance to this paper, Venezuela will be used as an example of whether or not the military in Venezuela would be able to be used as mechanism to express the Venezuelan people's right to resist Maduro's government.

First, the government or regime that is to be resisted, must be considered authoritarian or repressive. This is difficult to judge for there is no criteria that can be created for it could never cover every country's norms or even imagine what a ruler or regime could do. However, there are associated acts with an authoritarian or a totalitarian regime; the regime:¹⁶⁵

often acts affirmatively, via legal or extra-legal means, to suppress political opposition. Although an authoritarian regime lacks responsible political opposition, fairly extensive economic and social pluralism exists that predates the establishment of the authoritarian regime. The ruling leader or leaders often lack an elaborate and guiding ideology and exercise power within ill-defined norms.

¹⁶⁴ Varol "The Democratic Coup d'état", above n 80.

¹⁶⁵ Above n 80.

Generally speaking, the government or regime will be authoritarian and repressive by postponing elections to keep themselves in power, hindering opposition parties, refusal to address issues being mass protested or violating their own constitution as examples.

President Maduro has hindered opposition parties from opposing his rule and even took away legislative powers from the opposition majority national assembly.¹⁶⁶ He has also refused to address the issues the opposition and citizens of Venezuela have protested, even causing those protests to become violent.¹⁶⁷ By calling the constituent assembly, Maduro effectively postponed the election, with potential for the assembly, filled with majority Maduro supporters, to cancel the election altogether.¹⁶⁸ Maduro's government would satisfy this first criteria.

If a coup is staged against a non-authoritarian regime or government, the coup is not democratic nor is it an expression of a right to resist. There are other options for ridding this regime, such as elections or calls to resign. There is no need to resort to a coup, for the right to resist is a right of last resort.

Second, there is popular opposition against this repressive and authoritarian regime. As Varol suggests, the popular opposition takes the form of a popular uprising, which refers to a mass gathering of people from many "facets of society united by a common political cause", to overthrow a authoritarian and repressive regime or government.¹⁶⁹ This mass gathering continues and grows overtime and in intensity, demanding for regime change.

This is where a military is important, for this large group cannot coherently reform the regime and lack the ability to do so. The military however, can. Often the people call upon the military to intervene and protect them from the regime.¹⁷⁰ This is significant because this is the source of the 'democratic' aspect of the coup. The military act as the people's voice, the majority's voice, to answer their call for democratic change.

¹⁶⁶ BBC, above n 131.

¹⁶⁷ Martin, above n 153.

¹⁶⁸ BBC, above n 131.

¹⁶⁹ Varol "The Democratic Coup d'état", above n 8.

¹⁷⁰ Above n 80.

In Venezuela, there are various groups who make up opposition to Maduro's regime¹⁷¹. Each of these groups have used the right to resist's article (article 35) in the Venezuelan constitution to justify their violence and protest and to protect them from the regime. The protests occurring in the capitol of Venezuela and various other cities have progressively gotten more intense and more popular.¹⁷² The citizens coming together at these protests have the common message, at first for Maduro to step down as President, now it is to overthrow the Maduro regime¹⁷³ and there are calls to the military to do so. The second criteria would be filled by the popular uprising of the people through mass protesting and violent groups fighting back in Venezuela.

Third, the regime must ignore the popular uprising, the mass communication from the citizens. Maduro has clearly done this. He has not listened to the Venezuelan opposition, the Resistance or the coalitions of people formed specifically to resist Maduro's regime. He has continued his authoritarian rule despite the gaining popularity of his opposition. This third criteria is fulfilled.

Fourth, the military is the voice of the country's people. Generally, militaries are made up of non-paid professionals, ordinary citizens who have joined either through free will or conscription. This makes the military more empathetic towards the protestors and the people in general under the authoritarian regime.¹⁷⁴ The military, when the country is under authoritarian rule, is often seen as the most stable and reputable institution unable to be influenced by the regime.¹⁷⁵ This military is far less likely to follow the repressive regime and more likely to align with the interests of the repressed public for they are their neighbours, friends and family. Their interests are affected when the regime is repressive. The military will be more likely to stage a coup, for the right reasons, for democracy.

The Venezuelan military is currently not the voice of the Venezuelan people. There is corruption rife throughout due to the prior history of the Venezuelan military with Chavez's rule and previous coup attempts causing distrust in the military by the Venezuelan people.¹⁷⁶ Maduro has changed the role of the military in order to avoid the military intervening with his

¹⁷¹ Al Jazeera, above n 134.

¹⁷² BBC, above n 131.

¹⁷³ Gupta, above n 161.

¹⁷⁴ Varol "The Democratic Coup d'état", above n 80.

¹⁷⁵ Above n 80.

¹⁷⁶ Gupta, above n 161.

regime, already arresting military officials for conspiring against him.¹⁷⁷ But despite this, there is still the ability for the lower ranks of the military who are not supporters of Maduro and his government, but who align with the popular opposition. There is potential, as the economy continues to get worse and the incentives Maduro is offering are lessening, that the military will fight back against Maduro and listen to the voice of the people mass protesting Maduro's regime.

Fifth, the military responds to the mass protesting and the call of people to bring down the authoritarian regime and stages a coup, taking down the repressive regime. They must do so as non-violently as possible as this is to encourage democracy.

Sixth, after the coup has been staged and the military are in power, the military facilitates and holds free and fair elections for democratic leaders for the country in a short amount of time. This is another important aspect for making the coup as democratic as possible, for "the strongest democratic countervailing power to the nondemocratic dynamic of an interim government is free elections with a set date."¹⁷⁸ Elections and their democratic possibilities make the interim government of the military far more democratic, especially with a set date for them to occur. This puts the playing field back to even for the opposition parties who were cut down during the authoritarian regime. The military should also remain as neutral as possible as caretaker government and encourage the speed of the elections occurring.¹⁷⁹ This is because they are not leaders of government, this is unfamiliar for them and they are therefore more likely to struggle to make the decisions vitally needed for the recovering country.¹⁸⁰ No matter what the military decide to do about constitutional matters, "the military does not attempt to perpetuate its time in power and stays in power no longer than is necessary to transition the nation to democracy."¹⁸¹ The new regime that arises out of the elections facilitated by the military will satisfy the definition of democracy that this paper discusses earlier: "a regime where the decision makers and leaders are elected through fair and honest elections"¹⁸². By holding free and fair elections, the military will facilitate the establishment of a democratic

¹⁷⁷ Above n 161.

¹⁷⁸ Juan J Linz and Alfred Stepan *Problems of democratic transition and consolidation: Southern Europe, South America, and post-communist Europe* (JHU Press, 1996) at 120.

¹⁷⁹ Varol "The Democratic Coup d'état", above n 80.

¹⁸⁰ Above n 80.

¹⁸¹ Above n 80.

¹⁸² Huntington, above n 7, at 7.

procedural change for the country. This holding of elections also fits within the definition of the right to resist in that the coup is for “the purposes of facilitating democratic and structural change”.

In Venezuela, if the military were to step in, they would need to facilitate the holding of free and fair elections as soon as possible after the coup in order to keep the coup democratic and to justify their actions under the right to resist.

Seventh, the coup ends with the transfer of power from the military to the newly democratically elected regime. The military should not alter results or complicate the transfer of power for their purpose of intervening was to facilitate democratic change. As the military is to act as a neutral party when they are caretaking, they then must still hand over power to the democratically elected leaders, even if their policies do not align with those of the military's.¹⁸³

The 7 criteria this paper has developed can identify and establish whether a country's military may be able to justify a coup d'état through expressing the people's right to resist an authoritarian government or regime. It is important that all the criteria be met, for the right to resist is a powerful right, and the military should only intervene as a last resort and only under extreme circumstances. The military is then tasked with caretaking duties and it is also very important that they do not abuse their power here and begin a new authoritarian regime, for this is undemocratic. There must be free and fair elections for the coup to be democratic and for the right to resist to be expressed. The coup d'état must result in democratic and procedural change away from the authoritarian regime.

If the Venezuelan military decided to intervene with Maduro's regime and take over, the coup would likely satisfy Varol's criteria and also satisfy this paper's so long as the military facilitated democratic change by acting neutral and passing their power to free and fairly elected government representatives soon after the coup.

These criteria are broad, and there are still various issues within them that can complicate matters depending on the factual circumstances. The time between the military staging the coup

¹⁸³ Varol “The Democratic Coup d'état”, above n 80, at 307.

and acting as interim government can be turbulent and difficult for the country and its people.¹⁸⁴ The military are unfamiliar to running a country, particularly a country that has had an authoritarian ruler previously and the economic and social policies are undesirable. There is also the issue of the trend seen in the aftermaths of coups of the military drafting new constitutions and supplanting power for themselves into these post-authoritarian constitutions.

The biggest issue with a democratic military coup as an expression of the people's right to resist, is the issue of who can tell us when resistance of the authoritarian regime is justified? When are the circumstances extreme? Just because the opposition in their resistance feel justified in their actions, does not mean they are justified. There should be international criteria, or at the very least, international support for these countries that are faced with authoritarian regimes and are struggling. If the military is corrupt, such as what is happening with the Venezuelan armed forces, there is no one to step in and intervene with the repressive regime and facilitate democratic change, so how is a country able to exercise their right to resist in this situation? These issues are difficult to tackle, and this paper does not attempt to do so, but they are important nonetheless and deserve attention.

The right to resist, and the ability to express this right, is still important today as made clear with the constitutional crisis occurring in Venezuela currently as this paper is being written. It is not enough for the international community to condemn authoritarian regimes. They need to be able to help suffering countries from their repressive rulers when circumstances become dire, as they are becoming in Venezuela with deaths and violent protests occurring frequently. There should be some international agreement of the right to resist authoritarian government and facilitation of democratic and procedural change for these countries when circumstances are dire.

VI Conclusion

The right to resist is the right for an individual, when part of a group, to resist and even overthrow repressive and authoritarian regimes and governments under extreme conditions for the purposes of facilitating democratic and structural change.

¹⁸⁴ Above n 80.

A coup d'état is democratic when the military intervenes as the voice of the people protesting the authoritarian regime they are governed by when circumstances become dire and through this intervention, facilitate democratic, free and fair, elections in a short span of time that they hand their power to the victors after.

These democratic coups are able to be justified as they are a mechanism for the people to exercise their right to resist their repressive regime. This is an important mechanism, for there are countries today that are facing repressive and authoritarian rulers who are refusing to address the issues they are mass protesting, with protests even turning violent resulting in death. One such country is Venezuela.

Venezuela is currently under an authoritarian regime with Maduro as President. They are also facing an economic crisis that is only making matters worse, and Maduro refuses to listen to the Venezuelan people and is unconstitutionally hindering the opposition party and any potential for future elections. The Venezuelan people are resisting as much as they possibly can, his rule, often justifying this through article 350 of their constitution which encapsulates the people's right to resist.

In order for a democratic coup to successfully express the people's right to resist, the staging of the coup must satisfy the 7 criteria that this paper has set. First, the coup must be staged against an authoritarian government or regime. Secondly, there is popular opposition against this repressive and authoritarian regime. Thirdly, the authoritarian and repressive regime or government refuse to step down and refuse to change their rule, causing extreme conditions the people are forced to live under. Fourth, the military is the voice of the country's people. Fifth, the military responds to the mass protesting and the call of people to bring down the authoritarian regime and stages a coup, taking down the repressive regime. Sixth, after the coup has been staged and the military are in power, the military facilitates and holds free and fair elections for democratic leaders for the country in a short amount of time. And finally, seventh, the coup ends with the transfer of power from the military to the newly democratically elected regime. Both the 1960 Turkish military coup and the 2011 Egyptian military coup satisfy these criteria. Venezuela, should the military choose to side with the protesting popular opposition, would also satisfy this criterion so long as the military facilitate free and fair elections and hand over power swiftly after staging the coup.

This paper emphasises the importance of justifying a military coup for democratic facilitation in order to stop authoritarian governments repressing their people and breaching their constitutional obligations as leaders of their country. The issues that this paper is not able to address are complicated but further emphasise the importance of the people having this natural law of a right to resist. Without a military that has a stable reputation, there are few mechanisms the citizens subject to an authoritarian regime can use to express their right to resist. There therefore needs to be some form of international standards, such as the criteria set out in this paper, or organisation who is then able to assist these countries in need to help the people express their right to resist authoritarian governments. This is something to explore in future projects.

VII Bibliography

A Legislation

1 Cuba

Constitution of the Republic of Cuba 2002 (Cuba).

2 France

Constitution of France 1958 (France).

3 Germany

Basic Law for the Federal Republic of Germany 1949 (Germany).

4 United States of America

Constitution of the United States of America (USA).

United States of America, Texas Constitution 1876.

5 Venezuela

Constitution of the Bolivarian Republic of Venezuela (Venezuela) 1999.

B United Nation Materials

Universal Declaration of Human Rights, preamble.

United Nations Educational, Science and Cultural Organisation “Violation of Human Rights: Possible Rights of Recourse and Forms of Resistance” (Meeting of Experts on the Analysis of the Bases and Forms of Individual and Collective Action by which Violations of Human Rights can be Combated, Sierra Leone, 1984).

C Books and Chapters in Books

LaVerle Berry *Ghana: A Country Study* (Library of Congress, Federal Research Division, 1995).

Dennis Bloodworth *The Chinese Looking Glass* (Farrar, Straus & Giroux, 1980).

Thomas Hobbes *Leviathan* (A&C Black, 2006).

Samuel P Huntington *The third wave: Democratization in the late twentieth century* (University of Oklahoma press, 1993) vol 4.

David B Kopel “The Universal Right of Self Defense and the Auxiliary Right to Defensive Arms” in Kevin Yuill and Joe Street (eds) *Second Amend Gun Control Freedom Fear And the American Constitution* (Routledge, 2017).

Juan J Linz and Alfred Stepan *Problems of democratic transition and consolidation: Southern Europe, South America, and post-communist Europe* (JHU Press, 1996).

Ronnie Littlejohn *Confucianism: An Introduction* (IB Tauris, 2010) at xix.

John Locke *The Second Treatise on Government* (Aegitas, 2017).

Louis A. Perez *Cuba and the United States: Ties of Singular Intimacy* (3rd ed, University of Georgia Press, 2003).

Toby Reiner *Encyclopedia of Political Theory* (SAGE Publications, Inc, Thousand Oaks, 2017).

Filipe Ribeiro de Meneses *Salazar: A Political Biography* (Enigma Books, 2009).

Eric Solsten *Portugal, a Country Study* (2nd ed, Library of Congress, Federal Research Division, 1994).

Özgür Mutlu Ulus *The army and the radical left in Turkey: military coups, socialist revolution and Kemalism* (IB Tauris, 2010) vol 97.

Arthur Waley *The Analects of Confucius* (Psychology Press, 2005) vol 28.

D Journal Articles

Ersel Aydinli, Nihat Ali Ozcan and Dogan Akyaz “The Turkish military’s march toward Europe” (2006) 85 *Foreign Aff* 77.

Joel Colón-Rios “Five Conceptions of Constituent Power” (2014) 130 *L.Q.R* 306.

Tony Honoré “The Right to Rebel” (1988) 8 *Oxford J. Legal Stud.* 34.

Arthur Kaufmann “Small scale right to resist” (1985) 21 *New Eng Rev* 571.

Daniel Lansberg-Rodriguez Tom Ginsburg and Mila Versteeg “When to Overthrow Your Government: The Right to Resist in the World’s Constitutions” (2013) 60 *UCLA Law Rev* 1184.

Mona Makram-Ebeid “Egypt’s 1995 elections: one step forward, two steps back?” (1996) 4 *Middle East Policy* 119+ *Global Issues in Context*.

Nikolay Marinov and Hein Goemans “Coups and Democracy” (2014) 44 *Br J Polit Sci* 799.

Deborah N Pearlstein “The Soldier, the State, and the Separation of Powers” (2011) 90 *Tex Rev* 797.

Jonathan M. Powell “An Assessment of the ‘Democratic’ Coup Theory” (2014) 23 *Afr Secur Rev* 213.

Yulia Razmetaeva “The Right to Resist and the Right to Rebel” (2014) 21 *Jurisprudence* 758.

Edward Rubin “Judicial Review and the Right to Resist” (2008) 97 *Geo LJ* 61.

Ozan O Varol “The Democratic Coup d’état” (2012) 53 *Harv Int Law J* 291.

Ozan O Varol “The Turkish ‘model’ of civil–military relations” (2013) 11 *Int J Const Law* 727.

E Newspaper and Magazine Articles

“Timeline: Egypt's revolution” *Al Jazeera* (online ed, Qatar, 15 February 2011).

“Venezuela’s crisis explained from the beginning” *Al Jazeera* (online ed, Qatar, 2 August 2017).

“Venezuela Crisis: What is behind the turmoil?” *BBC News* (online ed, United Kingdom, 4 May 2017).

“Meet 'The Resistance': Venezuela's frontline protest army” BBC News (online ed, United Kingdom, 27 July 2017).

Sibylla Brodzinsky and Daniel Boffey “40 countries protest Venezuela's new assembly amid fraud accusations” The Guardian (online ed, London, 2 August 2017).

Hannah Dreier and Joshua Goodman “Venezuela military trafficking food as country goes hungry” Associated Press (online ed, New York City, 28 December 2016).

Girish Gupta “All eyes on Venezuela military after protests, vote” Thomson Reuters (online ed, United States of America, 2 August 2017).

“American Revolutionary History” History.com (online ed, United States of America, 2009).

David D. Kirkpatrick “Egypt Erupts in Jubilations as Mubarak Steps Down” The New York Times (online ed, New York, 11 February 2011).

Sabrina Martin “Meet Venezuela’s ‘Resistance:’ An Army of Heroes Willing to Sacrifice their Lives for Democracy” Panam Post (online ed, Florida, 23 May 2017).

Jennifer L. McCoy “Venezuela’s controversial new Constituent Assembly, explained” The Washington Post (online ed, United States of America, 1 August 2017).

“Helicopter attack against Venezuela’s Supreme Court – Assailant claims constitutional right to resist” NSNBC International (online ed, Denmark, 28 June 2017).

Lily Rothman “A Short History of Modern Turkey's Military Coups” Time (online ed, United States of America, 16 July 2016).

Raul Stolk “Here’s Why Venezuela’s Military Prefers Chaos to a Coup” Daily Beast (online ed, New York, 8 September 2017).

F Internet Materials

“Coup d’état” Encyclopædia Britannica <https://www.britannica.com/topic/coup-detat>

“Egypt Uprising of 2011” (30 May 2016) Encyclopædia Britannica <<https://www.britannica.com/event/Egypt-Uprising-of-2011>>.

“Second Amendment” Legal Information Institute <https://www.law.cornell.edu/wex/second_amendment>.

“Self-determination” (21 September 2017) Unrepresented Nations & Peoples Organisation <<http://www.unpo.org/article/4957>>.

G Other Materials

Roberto Gargarella “The Last Resort: The Right of Resistance in Situations of Legal Alienation” (Yale Law School SELA Paper 23, Yale, 2003) at 1.