

THE CENTRE FOR INTERNATIONAL & PUBLIC LAW (CIPL)  
ANU COLLEGE OF LAW PRESENTS:



## PUBLIC SEMINAR

# The Security Council and the Rule of Law: Breaches of Constitutional Law as a Threat to the Peace under Article 39 of the UN Charter?

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**Friday, 15 May 2009, 1-2pm**

Phillipa Weeks Staff Library

ANU College of Law (Bldg 5), Fellows Rd, ANU

The Australian National University

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This event is free and open to the public.

Over the past few years the UN Security Council has on several occasions affirmed the "vital importance" it attaches to promoting the rule of law. Dozens of its resolutions make references to the need to respect "the rule of law" or "the constitutional order" of States. In some cases in which democratic governments have been overthrown by military coups, the Council has gone as far as to ask "for an immediate restoration of the constitutional order", declaring that it "opposes any attempts to change governments through unconstitutional means". Moreover, in some of those cases, the Council has not hesitated to adopt sanctions in order to deal with what it considered "threats to the peace and international security". Could this mean that there is an emerging connection in Council practice between certain grave breaches of constitutional law and the concept of "threat to the peace" found in article 39 of the Charter? Nothing is less certain. In the great majority of cases, the Security Council remains completely indifferent to member States' violations of their constitutional law, including many unconstitutional overthrows of governments by way of coup d'état. Indeed, in some cases the Security Council even seems to consider that the respect of domestic constitutional law might be dangerous for international peace and security, thereby encouraging attitudes and actions contrary to national constitutions. The conclusion seems to be then, that the UN Security Council's interest in the respect of a State's constitutional order is only incidental and that for this organ, national constitutions remain, as the Permanent Court of International Justice put it in 1926, "mere facts".

The views expressed in this seminar are those of the presenter and do not necessarily represent the views of The Australian National University.

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