4-7-2011

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First Couple File for Divorce so Sandra Torres Can Run for President

by Louisa Reynolds
Category/Department: Guatemala
Published: Thursday, April 7, 2011

First lady Sandra Torres de Colom put on what many regarded as an Oscar-winning performance as she fought back tears in announcing that she was divorcing her husband, President Alvaro Colom, for the sake of the nation. "I am divorcing the president, but I'm getting married to the people," she said.

The divorce was made public on March 22, three days after Torres announced her candidacy for the official Unidad Nacional de la Esperanza (UNE) party.

The Guatemalan Constitution forbids a president’s relatives from running for office for the period immediately after he or she leaves office. However, the Código Civil states that marriage does not constitute a blood tie, which means that, from a legal perspective, a first lady does not count as a relative.

Torres had two options: to fight a long legal battle in the Corte de Constitucionalidad (CC) to secure her candidacy or to file for divorce to annul her family tie to the president.

Because of the crucial role that the CC will play in tipping the balance for or against Torres, the election of the court’s new judges took place last month under intense scrutiny from various lobbies and civil-society organizations (NotiCen, March 24, 2011).

Although the official party was repeatedly accused of trying to manipulate the election to ensure that pro-government judges would be elected, most observers were satisfied that the election was transparent and that most of the judges elected have conservative, pro-business leanings.

UNE sources said that, as efforts to ensure the election of pro-government judges failed, taking Torres’ case to the CC was deemed too risky. For this reason, the official party decided on a different strategy: an orchestrated show of popular support for Torres’ candidacy from the beneficiaries of the Colom administration’s social programs, then the announcement that she would run for office, and finally the divorce.

This allowed Torres to claim that grassroots UNE members had urged her to run for office and that she had merely complied out of love for her people. The divorce was thus portrayed as "a sacrifice" that Torres had to make for the sake of her supporters.

Opposition fights back

The official party decided that the media frenzy over the divorce would last no more than a month and that this was a better option than allowing Torres to undergo a legal battle in the CC halfway through the election campaign.

However, the opposition has labeled the divorce "an electoral fraud"—meaning that it is a legal ruse designed to circumvent a constitutional prohibition—and has vowed to appeal against it.
Three days ago, a group of law students from the Universidad Francisco Marroquín (UFM) lodged an appeal against the divorce, arguing that it cannot be granted until the deadline for political parties to announce their candidates for the forthcoming elections has expired.

Experts disagree on the legality of the first couple’s divorce. Former CC judge Alma Quiñones believes that family Judge Mildred Roca, who must grant or refuse Colom and Torres’ voluntary divorce petition, "cannot get herself embroiled in the arguments regarding the motives behind the divorce." In her view, Judge Roca should grant the divorce and let the CC and the Tribunal Supremo Electoral (TSE) decide whether she can run for office.

Family lawyer María de León Iglesias agrees. "Roca is doing the right thing because family issues have nothing to do with politics. She would incur a breach of duty if she expressed an opinion beyond the family issue".

However, constitutional expert Gabriel Orellana argues that Colom and Torres are not an ordinary couple, they are a first couple, and as such they have constitutional obligations.

The deadline for Judge Roca to accept or reject the appeal lodged by the UFM students expired April 4 at midday. Because of the high profile and controversial nature of the case, Judge Roca has come under intense pressure.

Two days ago Judge Roca even claimed she had received death threats. "I received a telephone call from an unidentified male who claimed to be a defender of the Constitution, and he told me that if I granted the first couple’s divorce I, or one of my family members, would be killed." The Corte Suprema de Justicia (CSJ) has ordered special protection measures for Judge Roca.

Other controversial candidates

Torres is not the only controversial candidate. Former President Álvaro Arzú (1996-2000), who has also served as mayor of Guatemala City for three consecutive periods, is now seeking re-election, despite the constitutional prohibition against it.

After efforts failed to take a petition to Congress demanding that the constitutional article that prohibits presidential re-election be modified, Arzú’s Partido Unionista (PU) came up with a strategy: his wife, Salvadoran-born Patricia Escobar de Arzú, would run for president.

Escobar is well-known in Guatemala City as the director of the Secretaría de Asuntos Sociales de la Municipalidad de Guatemala, in charge of a number of charity projects that aim to help children from poor backgrounds and young people at risk of falling into gang life.

Escobar’s candidacy is curious when compared with Torres' candidacy since in Escobar's case there are no constitutional impediments even though she is not Guatemalan. The Guatemalan Constitution stipulates that all Central Americans who request Guatemalan citizenship count as Guatemalan-born nationals and enjoy the same political rights, including the right to run for office. It turns out that the Guatemalan Constitution allows a foreigner to be president but not first lady.

Otto Pérez Molina, who leads the polls as the presidential candidate of the rightist Partido Patriota (PP), could also be barred from running for office because of his alleged involvement in human rights abuses committed during Guatemala’s 36-year Civil War.

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Retired Gen. Pérez Molina is accused of ordering the disappearance of guerrilla fighter Efraín Bámaca in March 1992 (NotiCen, July 23, 1998) and (Dec. 21, 2000). The CC ruled that there were no legal grounds to prosecute him, but in December 2010 the Inter-American Court of Human Rights (IACHR) ordered the case reopened (NotiCen, July 4, 2002).

The PP has predictably accused the government of using the Bámaca case to remove Pérez Molina from the presidential race.

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