President Otto Pérez Molina’s Calls for Constitutional Reform Spark Controversy

Louisa Reynolds
President Otto Pérez Molina’s Calls for Constitutional Reform Spark Controversy

by Louisa Reynolds
Category/Department: Guatemala
Published: 2014-08-07

A year before the general elections, President Otto Pérez Molina has called for a constitutional reform that would extend the presidential mandate by two years. Critics and political opponents have accused the president of seeking re-election and have even launched several lawsuits against him as well as a number of key players in his administration.

The media frenzy regarding President Pérez Molina’s alleged intentions to stay in power began on April 7 when the president of Guatemala’s Congress Arístides Crespo said, "Guatemala needs to allow re-election so that Otto Pérez and Roxana Baldetti can be elected president and vice president again."

Congressman Crespo later said that he had spoken in the heat of the moment and that he wasn't alluding to any specific plans to propose a constitutional reform. However, a week later, on April 15, President Pérez Molina told CNN that the Constitution requires "important changes that go beyond re-election."

President Pérez Molina’s remarks have set off a controversy because the Guatemalan Constitution contains a number of articles that cannot be changed, known as artículos pétreos, which include those establishing a four-year period in office and explicitly forbidding re-election or extending a president's mandate. Given the region’s history of authoritarian rule, the authors of the 1985 Constitution included this prohibition to safeguard the country’s nascent democracy.

The Constitution goes as far as prohibiting close relatives of an incumbent president and vice president from running for office to prevent the rise of dynasties. In 2011, former first lady Sandra Torres tried to circumvent this prohibition by divorcing President Álvaro Colom, but the Constitutional Court (CC) ruled that she could not run for office (NotiCen, April 7, 2011, and July 14, 2011).

Most constitutional experts interpret these artículos pétreos as meaning that even proposing a reform of these articles is unconstitutional, illegal, and therefore punishable under Guatemalan law. Even the private sector, among President Pérez Molina’s staunchest supporters, has branded his statements as irresponsible.

On May 31, Plataforma Ciudadana, a grassroots civil-society organization led by left-wing academic Álvaro Velásquez, launched a lawsuit against President Pérez Molina as well as a number of key players in his administration who have publicly advocated a constitutional reform that would make re-election possible, including Congressman Crespo, Courte Suprema de Justicia (CSJ) president José Arturo Sierra, president of the Corte de Constitucionalidad (CC) Roberto Molina Barreto, and Partido Patriota (PP) Congressman Valentín Gramajo. The next day, the newly created Corazón Nueva Nación, led by retired Lt. Col. Otto Bernal, launched a similar lawsuit.

On June 3, visibly irked by the negative media coverage that the issue has received, President Pérez Molina accused his critics of turning a call for debate into "a circus" and stated that he had nothing
more to say on the matter. However, an article published by the daily newspaper El Periódico on June 4 quotes official party sources who claim that a constitutional reform proposal is currently being drafted.

Debate on constitutional reform

While most political and civil-society groups agree that it is normal and desirable for the Constitution to be reformed every 10 to 15 years, the point of contention is whether a complete overhaul of the Constitution is necessary, in which case an Asamblea Nacional Constituyente (ANC) needs to be called, or whether a partial reform can suffice, which merely requires the approval of at least two-thirds of congressional representatives.

The country’s conservative elite, represented by organizations such as the Centro para la Defensa de la Constitución (CEDECÓN), is wary of a constituent assembly as this would require Guatemalans to vote for or against the reform, and they fear it could usher in what they regard as "populist reforms," which occurred in a number of South American countries that have undergone constitutional-reform processes, such as Bolivia and Ecuador.

Plataforma Ciudadana, on the other hand, argues that labor unions as well as indigenous and campesino organizations have been excluded from the debate on constitutional reform and that only a national constituent assembly can guarantee the participation of different sectors to ensure that the reform process is truly democratic.

During the 2007 election campaign, when he unsuccessfully ran for office against Unidad Nacional de la Esperanza (UNE) candidate Álvaro Colom, President Pérez Molina advocated a reform that would: 1) reduce the number of congressional representatives from 158 to 80; 2) allow public officials and members of Congress to be stripped of their immunity only if the crimes they were accused of had allegedly been committed during their period in office; and 3) grant local authorities greater independence.

However, the issue was never brought up during the 2011 election campaign as Pérez Molina chose to focus solely on the need to fight crime and violence. Then, in 2012, during the first year of his administration, the president reignited the debate when he unsuccessfully tried to get Congress to approve a partial constitutional reform.

Other reform proposals include: 1) a complete overhaul of the Constitution put forward by the libertarian Pro-Reforma movement in 2006, which would abolish income tax and create a bicameral system similar to the United Kingdom’s parliament; 2) a partial reform of a number of articles regarding the justice system, proposed by three major academic institutions—the Universidad Rafael Landívar (URL), the state-funded Universidad de San Carlos (USAC), and the Asociación de Investigaciones y Estudios Sociales (ASIES); 3) a reform that would reinstate the death penalty and elect governors and judicial authorities through universal suffrage, put forward by LIDER, the country’s main opposition force, during the 2011 elections.

The current debate on constitutional reform shows a broad consensus across the political spectrum regarding the need to adopt a new Constitution in tune with the country’s needs and priorities. However, the existence of widely different reform proposals is a reflection of deep social, political, and economic divisions that make this debate highly volatile and potentially destabilizing.