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Legislature Reverses Colombia’s Decade-Old Term-Limit Reform

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The issue of presidential term limits has taken center stage in the world of Colombian politics for two reasons, both of which are considered, by most analysts, to be highly positive for the health of the democracy.

The first is that five prominent figures from the first administration of ex–President Álvaro Uribe (2002-2010) have been jailed—and given sentences of between six and 14 years—for bribing members of Congress to vote in favor of a 2004 constitutional reform that allowed Uribe to be re-elected in 2006. The reform established, for the first time in Colombian history, that a president could serve two terms rather than just one.

The second reason people are again talking about term limits is that Congress voted last month to reverse the reform and do away with the re-election option once and for all. The only way to re-establish it now would be through a popular referendum or by setting up a National Constituent Assembly, which are the sole recognized avenues for amending the Constitution and are, for that very reason, extremely difficult to implement.

Uribe, his family, and his political circle continue to be regular fixtures in the country’s police and crime reports, always regarding cases involving corruption, drug trafficking, or far-right paramilitary groups. His niece, uncles, brothers, a sister-in-law, and now-deceased father have all been linked to such cases. The ex-president is implicated in an espionage case with which he allegedly tried to discredit and derail peace talks that the government of President Juan Manuel Santos and the Fuerzas Armadas Revolucionarias de Colombia (FARC) guerrillas—with support from the Cuban and Norwegian governments—have held for the past two and one-half years (NotiSur, March 7, 2014).

Uribe has been deeply involved, as well, in the corruption case that preceded the legislature’s decade-old decision allowing him to seek and eventually win re-election (NotiSur, Feb. 11, 2005, and June 9, 2006). He came out in defense of his ex-ministers Sabas Pretelt and Diego Palacio, former chiefs of staff Alberto Velázquez and Bernardo Moreno, and former intelligence chief María del Pilar Hurtado, who headed the now-defunct Departamento Administrativo de Seguridad (DAS).

"Morbid personal vendetta"

Details of the case first came to light in 2008, when then deputy Yidis Medina of the opposition Partido Conservador acknowledged that, in 2004, she and her colleague Teodolindo Avendaño, also a member of the Partido Conservador, were bribed by Uribe’s re-election team (NotiSur, June 27, 2008). Medina ended up voting for the re-election reform, which she had previously opposed as being "essentially anti-democratic." Avendaño, to avoid that kind of public about-face, chose not to show up to Congress the day it voted on the constitutional reform.

Both were convicted and sentenced to five years in jail for accepting favors, in the form of government jobs, for family members and political friends. During the trial, prosecutor Álvaro
Osorio said that Medina’s confession "establishes automatically that there was a bribe." He went on to say that such a crime, by its very definition, involves another party. "If the congresswoman has to spend years in jail as punishment for selling her vote or, in the case of Avendaño, for skipping [the vote], then someone had to have corrupted them," said Osorio.

It was from there that the case led to members of Uribe’s inner circle. Hurtado and Moreno were implicated directly in the vote-buying scandal. But the sentences they received, 14 and eight years, respectively, stem from a separate case involving the DAS, which spied during the Uribe governments on judges, prosecutors, journalists, and leaders of humanitarian organizations. The intelligence agency answered directly to the president’s office via the chief of staff (Moreno), who was the sole go-between separating the head of state (Uribe) and DAS director (Hurtado).

Surprised by Uribe’s energetic defense of his former subordinates, the Corte Suprema de Justicia (CSJ), upon convicting Moreno and Hurtado, suggested that the ex-president also be investigated. As a former head of state, Uribe enjoys special legal protections. The only body with the authority to investigate is the Comisión de Acusaciones, a lower-house committee in Congress popularly known as "The Ineffective." As its moniker suggests, the committee is unlikely to cause Uribe any serious problems.

The relaxed ex–president—in a statement that baffled lawmakers, the CSJ judges, and Colombian society as a whole—responded by saying that the accusations, convictions, and even the vote to reverse the re-election reform were the product of "President Santos’ morbid personal vendetta against me."

**Conflicts of interest**

The June 3 decision by Congress to again limit Colombian presidents to a single term was also steeped in scandal. A group of lawmakers and the establishment magazine Semana complained that, right up to the vote, judges, prosecutors, and members of the CSJ threatened members of Congress by reminding them of pending or open court cases—all related to drug trafficking or corruption—that hang over many of their heads. The re-election reversal ended up being approved by 90 of the lower house’s 166 deputies (with 66 abstentions).

"This is a clear case of blackmail," said Deputy Angélica Lozano hours before the vote. Fellow lawmakers Ángela María Robledo and Antonio Navarro spoke out as well, saying the environment was so "tense" that, for the previous legislative session, the bulk of the senators and deputies stayed away from the Congress building. Although there are no official numbers, the civil-society organization Verdad Abierta claims that 130 members of Congress are involved in pending or ongoing court cases—not counting the 250 lawmakers from the 2010-2014 period (President Santos’ first term) being investigated for connections to drug-trafficking organizations. More than two dozen of those lawmakers won re-election last year (NotiSur, May 16, 2014).

When the now-approved term-limit bill first entered Congress, 64 senators declared themselves "ineligible to act" based on the argument that they couldn’t legislate against a judge trying cases involving either them or members of their families. In the Chamber of Deputies, 52 lawmakers used the same excuse. Interior Minister Juan Fernando Cristo said that some lawmakers excused themselves "just in case"—because of the possibility of accusations against them that they are not aware of.
None of that explains why the judiciary was so obviously bent on preventing the initiative, technically the Ley de Equilibrio de Poderes (balance of powers law), from passing. The answer lies in the bill’s fine print: besides limiting presidents to a single term, the legislation also prohibits re-election in certain legal-justice-system posts, takes away various high court privileges, and allows authorities to be more rigorous in cases mounted against judges.

Checks and balances

Regarding the specific issue of presidential re-election, the legislation establishes that "no citizen who, under any title, has held the presidency of the Republic can be elected president." In addition, it says that, "public servants cannot nominate, promote, or contract people with whom they are relatives up to the fourth degree of consanguinity, friends up to a second degree, direct business associates, or with whom they are linked in marriage or in a permanent union." Nor, the document says, "can public servants offer or apply to have state contracts given to family members or people who have worked on behalf of their application or designation."

The legislation essentially brings Colombia back to its immediate roots, to the 1991 Constitution, which prior to the 2004 reform did not allow heads to state to seek re-election for the same reasons that are spelled out in the new norm and applicable starting with the next presidential election, in August 2018, as established by the electoral calendar. Presidential mandates will continue to be four years.

"We’re adapting the country to a system of checks and balances that will allow for a greater balance [of power], so that there aren’t any all-powerful people in Colombia," said Minister Cristo. "Getting rid of re-election was the only way to do that."

Semana offered its own take on the situation, arguing in a May 2 article that members of Congress have no autonomy to deliberate. "People are scared," the magazine explained. "The courts have played hard ball. They've visited and met with lawmakers to remind them of their open legal cases." The weekly also questioned whether "a judicial reform can really be pushed through when half the legislators are under investigation."

Semana went on to say that "the best demonstration of how impossible it is to address certain issues came last week when Justice Minster Yesid Reyes went to attend a debate on a bill to regulate pre-trial detention, a key initiative in efforts to alleviate prison overcrowding." When it came time to vote, "something surprising happened: 52 lawmakers (the same ones who excused themselves from working on the re-election issue) declared themselves ineligible," the magazine explained. "Most of them said they couldn’t vote because either they or family members are involved in criminal proceedings." Among those opting out were the "just-in-case" people that Minister Cristo mentioned.