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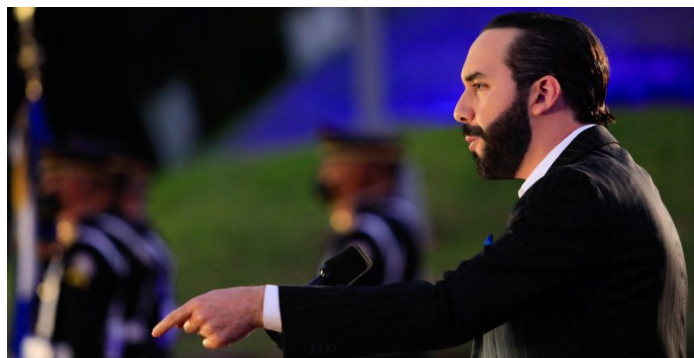
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FEATURED Q&A

What's Behind El Salvador's Reform of the Constitution?



The government of Salvadoran President Nayib Bukele, whose party controls the Legislative Assembly, wants hundreds of amendments to El Salvador's constitution. // File Photo: Salvadoran Government.

Q Salvadoran Vice President Félix Ulloa recently presented a constitutional reform proposal, which includes more than 200 modifications to the country's current constitution. Among the most notable suggested reforms is the extension of the presidential term from five to six years. To be approved, both the current Legislative Assembly and the next one, which will be elected in 2024, must accept the government's proposal. What are the main reasons behind the reform's introduction, and would it benefit the country? How likely is the reform to win approval in 2024, President Nayib Bukele's last year in office? If passed and enacted, what would this reform mean for Salvadoran government institutions, particularly the country's electoral and judicial systems?

A Ricardo Cevallos, partner at Ricardo A. Cevallos y Asociados: "El Salvador's constitution has been in force since 1983, and there has never been such a large number of amendments proposed—215. The constitution has 274 articles, so the proposal could be considered a rewrite just from looking at the number of modifications to be enacted. The Constitutional Assembly that created the 1983 Constitution had a broad representation of many of the then-political forces in society, which would not happen if the current and future legislatures approve the reforms, as the president's party controls the legislative branch. The government has not provided any reasons for this proposed change, except that other countries such as Mexico have six-year presidential terms. The practical advantage of having six-year terms would be to align the presidential election with the legislative

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POLITICAL

Opposition Parties End Boycott of Venezuela Vote

Venezuela's main opposition parties announced they would participate in balloting this November, ending a three-year boycott of the country's elections.

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BUSINESS

PaySafe Completes Acquisition of PagoEfectivo

PaySafe announced that it had completed the acquisition of Peru-based PagoEfectivo. PaySafe said a month ago that it had struck a deal to acquire the payments platform.

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ECONOMIC

Chile's Central Bank Hikes Key Interest Rate 75 Basis Points

Chile's central bank, led by Mario Marcel, announced that it was raising the country's benchmark interest rate by 75 basis points, a hike that was larger than analysts had expected.

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Marcel // File Photo: Chilean Central Bank.

POLITICAL NEWS

Opposition Parties End Boycott of Venezuela Elections

Venezuela's principal opposition parties on Tuesday announced they would participate in local and state elections this November, ending a three-year boycott of elections organized by the government of President Nicolás Maduro, The Washington Post reported. The announcement is a major shift in their strategy to wrest power from Maduro, whom they see as an illegitimate leader following presidential elections in 2018 that were widely denounced as fraudulent. While acknowledging the likelihood that the regional elections in November would be again rigged against them, opposition leaders in part see them as an opportunity to re-establish an electoral base and to lay the groundwork for future votes. Meanwhile, Maduro sees the opposition's participation as an important step in building international legitimacy, according to the report. On national television Tuesday night, Maduro said he was "going to sit down in my armchair, with popcorn, to watch Juan Guaidó vote on November 21st. I will applaud, because we made it, we included him in the democratic process again." Guaidó since 2019 has claimed to be the country's legitimate president and has been the international face of the opposition. "If the Guaidó forces as well as those guided by Henrique Capriles and other opposition elements can forge a useful electoral strategy and can overcome their rivalries to campaign with a shared vision ... they have a good chance to win significant number



Guaidó // File Photo: @jguaido via Twitter.

of governorships and mayoralities," Abraham Lowenthal, professor emeritus at the University of Southern California, told the Advisor in a Q&A published Aug. 20.

ECONOMIC NEWS

Chile's Central Bank Hikes Interest Rate by 75 Basis Points

Chile's central bank announced Tuesday that it would hike its benchmark interest rate to 1.5 percent from 0.75 percent, as the country's rapid Covid-19 vaccination rollout helps it resume economic activity and inflation ticks upward, Reuters reported. It is the country's largest rate increase in two decades, Bloomberg News reported. The move surprised all analysts in a Bloomberg News survey, all of whom expected a smaller raise. In a statement, the central bank's board said that emergency stimulus packages amid the pandemic had stronger effects than expected, driving an "extraordinary dynamism" in private consumption. The



The board decided to intensify the withdrawal of monetary stimulus."

— Chilean Central Bank

central bank said the decision came as its members acknowledged the need to avoid "an accumulation of macroeconomic imbalances that, among other consequences, could lead to a more persistent increase in inflation," it said in the statement, Bloomberg News reported. "The board decided to intensify the withdrawal of monetary stimulus," the central bank added. The bank also said financial market volatility in Chile continued because of the further potential for new withdrawals by Chileans from their privately held pension savings, a move that central bank chief Mario Marcel had warned

NEWS BRIEFS

Costa Rica's Ruling Party Ratifies Ramos as Presidential Candidate

Costa Rica's ruling Citizen Action Party late on Monday ratified former Economy Minister Welmer Ramos as its presidential candidate for upcoming elections next February after more than a week of vote-counting, Reuters reported. Ramos, 60, won 48 percent of the 16,500 votes in the open primaries the party held on Aug. 22. Currently a member of the Legislative Assembly, Ramos was economy minister from 2014 to 2017 under former President Luis Guillermo Solís. More than 20 candidates are expected to run in the 2022 election.

At Least 29 Killed When Bus Plunges From Cliff in Peru

A bus traveling along Peru's Central Highway in the Andes region plunged off a cliff early Tuesday, killing at least 29 passengers, authorities said, Reuters reported. Sixty-three people were on the bus, according to a police official. The bus fell from the highway, which connects Lima to much of the central Andes, near the town of Matucana, and it is the second such incident in Peru in a matter of days. A bus carrying mining workers fell off a cliff in the Andes on Friday, killing 16 people.

Salvadoran Lawmakers OK \$150 Million Fund for Bitcoin Conversions

El Salvador's Legislative Assembly on Tuesday approved the creation of a \$150 million fund to smooth conversions from Bitcoin to U.S. dollars ahead of its adoption of the digital currency as a legal tender on Sept. 7, Reuters reported. The measure will "financially support the alternatives that the state provides" to allow users to make the conversion, said a congressional document.

could drive up inflation and overheat the economy, Reuters reported. In July, consumer prices were up 0.8 percent, and rolling annual inflation reached 4.5 percent, its highest level since March 2016, the wire service reported.

BUSINESS NEWS

PaySafe Completes Acquisition of Peru-Based PagoEfectivo

Payments platform Paysafe announced today that it has completed its acquisition of Peru-based alternative payments platform PagoEfectivo. Paysafe, which is based in Britain, said the acquisition “gives it a strategic foothold in Latin America, one of the world’s fastest-growing online markets where merchants and consumers alike are demonstrating an increased appetite for alternative payment methods and open banking solutions.” Paysafe did not disclose the financial terms of the transaction in its statement. PagoEfectivo, a former subsidiary of Empresa Editora El Comercio, provides eCash and open banking payments services to customers. Founded in 2009, PagoEfectivo is also used in Ecuador, and the company is planning to expand into other countries, Paysafe said in its statement. Merchants in the areas of online gaming, digital goods, travel and e-commerce are among the customers of PagoEfectivo, “closely mirroring the industries in which Paysafe specializes,” Paysafe said. “PagoEfectivo has an impressive track record for growth and for possessing the pioneering flair and customer focus that we look for in Paysafe,” said PaySafe’s chief executive officer, Philip McHugh. PaySafe said it had an annualized transaction volume of \$100 billion last year, in addition to 3,400 employees located in more than a dozen locations around the world. Paysafe, which first announced on Aug. 2 that it had agreed to acquire PagoEfectivo, also said on Aug. 16 that it had struck a deal to acquire U.S.-based SafetyPay for \$441 million in an all-cash transaction.

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election, which takes place every three years—thus saving money. But aside from that, there is no logic to this change. Some of the amendments seem reasonable at face value; others have been discussed previously by different civil and political organizations. The main problem with this set of amendments for many of these organizations is the lack of transparency in the discussions to adopt them, which would be completely open to the public in a Constitutional Assembly. Another issue is that the legislature may want to apply the amendments to Bukele’s administration, as he will still be in office in 2024. This would go against the legal principle of the nonretroactive application of legal norms. If the amendments pass—which they probably will, judging from the president’s popularity—they will undoubtedly mean severe changes to El Salvador’s legal landscape. But as Bukele’s party slogan states, they are here to make history.”

A **Celia Medrano, San Salvador-based journalist specialized in human rights:** “It is important to understand the context of constitutional changes in El Salvador. It is difficult to speak of reforming the constitution if more than 200 articles are to be modified. In reality, it is changing the constitution. This seeks to change the rules of the game at a time when the president controls the Legislative Assembly, following an unconstitutional dismissal of the magistrates of the constitutional chamber of the Supreme Court and the attorney general, whose roles have been given to officials who also respond to the interests of the groups that control the presidency. There is talk of recognizing human rights, equal marriage and euthanasia, but we must focus on the core changes that are intended to take place. The prohibition on the existence of armed political groups is to be eliminated, and a single political party would be established. The presidential term would also be extended. These changes to the constitution

would violate the constitution itself. Safeguards referred to as constitutional ‘stone articles’ that legislators established would be broken. Anticipating that a political group would want to perpetuate itself in power, lawmakers implemented these articles after decades of suffering at the hands of

“**This seeks to change the rules of the game at a time when the president controls the Legislative Assembly...**”

— Celia Medrano

military dictatorships. It is no coincidence that the constitution is being changed in favor of the interests of the president after ruptures of the basic protections of democratic institutions such as separation of powers. Faced with the establishment of an authoritarian and militaristic regime, nothing in El Salvador today represents any control on arbitrariness and abuse of power. Nor are there any guarantees for a population that, albeit slowly, is becoming increasingly disillusioned and dissatisfied.”

A **Beatrice Rangel, member of the Advisor board and director of AMLA Consulting in Miami Beach:** “El Salvador is about the 12th country to choose constitutional reform to solve a political impasse. This, of course, is a strategy to gain time while legitimizing the political views of the circumstantial majority. And as time passes and governments continue to fail to deliver quality public goods to their populations, new constitutions lose legitimacy, and pressures for renewed reform efforts mount. Worse in some cases, such as in Peru, is the attempt to marry presidentialism with a parliamentary government, which has encouraged fragmentation and instability. In extreme

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rent-seeking nations such as Bolivia, Nicaragua and Venezuela, the door opens to authoritarian rulers who seize control of the state forever. As a result, Latin America holds the dubious record of having more constitutions per capita than any other region in the world. In El Salvador, the current reform seems to be headed in the very same direction as other Latin American countries. All of the region's nations have enshrined regulatory frameworks in a constitutional category. As a result, all Latin American constitutions lack the flexibility necessary to adapt to social progress, so when change takes the economy and society in new directions, these constitutions seem utterly anachronistic. President Bukele should be aware of this and remember that the only country with a constitution that has withstood the test of time is the United States. Before there was a constitutional text, there were the people. And the people agreed on a set of principles for self-government. Should Latin American countries desire to have enduring constitutions, the region has to give up on state intervention and societal control to allow the people to exert self-government through a set of principles that with time will create and strengthen a republic. The alternative is continuing chaos."

A **Tim Muth, attorney and publisher of El Salvador Perspectives:** "The changes proposed by the commission led by Vice President Félix Ulloa are wide-ranging, from lengthening terms in office of the president and other officials to acknowledgment of important human rights. The draft includes structural changes to the country's Constitutional Court, to the tribunal which oversees all electoral processes and to the Court of Accounts. The proposal also opens up several paths for direct popular action, from recall elections of public officials to referendums

and plebiscites. The constitution could be amended in the future by a simple majority vote in the legislature followed by a popular vote of ratification. These changes could be powerful future tools in the hands of a populist leader like Nayib Bukele. Significant criticism of these proposals focuses on the

“These changes could be powerful future tools in the hands of a populist leader like Nayib Bukele.”

– Tim Muth

Salvadoran president. His administration has been criticized both at home and abroad for disrespecting human rights, ignoring the separation of powers, sequestering public information and attacking the independent press in El Salvador. Since the present government has been willing to flout the existing constitution and rulings of the Supreme Court, critics feel it has lost its authority to propose an amended constitution. Absent a major misstep, reforms endorsed by Bukele are very likely to be adopted despite those complaints. The Legislative Assembly, which Bukele's party controls, rubber stamps his initiatives with little discussion. To become law, the reforms would need to be passed by a two-thirds majority in the next Assembly, which will come into office on May 1, 2024 following legislative elections."

[Editor's note: The Advisor invited El Salvador's ambassador to the United States, Milena Mayorga, to submit a commentary for this issue but received no response.]

The Advisor welcomes comments on its Q&A section. Readers can write editor Gene Kuleta at gkuleta@thedialogue.org.

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