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# NAVIGATING REFORM IN GUATEMALA:

Addressing Corruption in the Attorney General's Office

**Emerson Johnston** 

### Navigating Reform in Guatemala: Addressing Corruption in the Attorney General's Office

#### By Emerson Johnston

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#### Introduction

In 2023, Guatemala's political landscape was dramatically reshaped by the election of President Bernardo Arevalo, a reformist leader who came to power on a wave of public discontent with the entrenched corruption that had long plagued the country.<sup>1</sup> At the heart of Arevalo's mandate was the challenge of confronting and dismantling the deeply rooted networks of corruption that had historically undermined Guatemala's democratic institutions.<sup>2</sup> One of the most significant and immediate tests of his leadership was the decision regarding what to do about Guatemala's Attorney General María Consuelo Porras, a key figure within the conservative establishment, accused of obstructing justice and protecting the very corruption Arevalo sought to eradicate.<sup>3</sup>

As Arevalo contemplated his options in early 2024, he was acutely aware of the complex political dynamics at play. The conservative establishment in Guatemala, a coalition of powerful politicians, business leaders, and military figures, viewed Arevalo's presidency and his potential actions against Porras as direct threats to their power and influence.<sup>4</sup> Their interests lay in maintaining the status quo, preventing any reform that would weaken their hold on power, and discrediting Arevalo's administration if it challenged their authority.<sup>5</sup> Meanwhile, civil society groups, particularly those focused on anti-corruption, human rights, and democratic governance, were pushing for decisive action against corruption.<sup>6</sup> These groups represented a critical support base for Arevalo, seeing the removal of Porras as a necessary step to dismantle the corrupt structures that had long plagued the country.<sup>7</sup> The international community, including influential

Stephen McFarland, "Sometimes the Good Guys Win: Guatemala's Shocking 2023 Election," United States Institute of Peace, April 10, 2024, https://www.usip.org/publications/2024/04/sometimes-good-guys-winguatemalas-shocking-2023-election.

<sup>&</sup>lt;sup>2</sup> McFarland.

<sup>&</sup>lt;sup>3</sup> McFarland.

<sup>&</sup>lt;sup>4</sup> Stephen McFarland, "Sometimes the Good Guys Win: Five Lessons from Guatemala's 2023 Election," United States Institute of Peace, April 25, 2024, https://www.usip.org/publications/2024/04/sometimes-good-guys-win-five-lessons-guatemalas-2023-election; Alex Papadovassilakis, "Attacks on Guatemala's Anti-Corruption President Growing," InSight Crime, August 15, 2024, http://insightcrime.org/news/attacks-on-guatemalas-anti-corruption-president-growing/.

<sup>&</sup>lt;sup>5</sup> McFarland, "Sometimes the Good Guys Win," April 25, 2024; Papadovassilakis, "Attacks on Guatemala's Anti-Corruption President Growing."

<sup>&</sup>lt;sup>6</sup> Tyler Mattiace and Juan Pappier, "In Guatemala, A Fresh Crackdown on Prosecutors | Human Rights Watch," March 1, 2022, https://www.hrw.org/news/2022/03/01/guatemala-fresh-crackdown-prosecutors; Sonia Perez, "Indigenous Leader of Guatemalan Protests Says They Are Defending Democracy after Election," AP News, October 12, 2023, https://apnews.com/article/guatemala-protest-indigenous-giammattei-arevalo-6bef4169fb8696b5c747663a07c8af4b.

<sup>&</sup>lt;sup>7</sup> McFarland, "Sometimes the Good Guys Win," April 25, 2024.

actors from the United States and the European Union, was also closely watching Arevalo's next moves, having expressed concern over the state of democracy and rule of law in Guatemala.<sup>8</sup>

Guatemala's struggle with corruption and impunity has deep roots, stretching back to the brutal civil war that ravaged the country from 1960 to 1996. This conflict, which resulted in over 200,000 deaths, predominantly of indigenous civilians, left an indelible mark on the nation's political landscape. The war established a political culture where power was concentrated, and dissent was brutally suppressed. Even after the 1996 Peace Accords, which were meant to usher in a new era of democracy, military and conservative elites retained significant influence, shaping a political system marred by corruption. In the post-war years, corruption became deeply entrenched as networks of patronage adapted to the new democratic environment, controlling key state institutions, including the judiciary. High-profile corruption scandals in the 2000s highlighted the pervasiveness of the problem, with the Attorney General's office often used to target political opponents and protect allies. In

A significant development in the fight against corruption was the 2007 establishment of the International Commission Against Impunity in Guatemala (CICIG).<sup>12</sup> This UN-backed body successfully prosecuted high-profile figures, including President Otto Pérez Molina in 2015.<sup>13</sup> However, its successes led to growing resistance from conservative forces, culminating in the government's decision to end its mandate in 2019.<sup>14</sup> The appointment of María Consuelo Porras as Attorney General in 2018 furthered conservative efforts to stall anti-corruption progress. Porras, aligned with the conservative establishment, faced accusations of protecting corrupt officials and using her office for politically motivated prosecutions.<sup>15</sup> Her actions reflected a historical pattern of using the judiciary to maintain elite power.<sup>16</sup> However, despite these

<sup>&</sup>lt;sup>8</sup> U. S. Embassy Guatemala, "2023 Human Rights Report: Guatemala," U.S. Embassy in Guatemala, April 29, 2024, https://gt.usembassy.gov/2023-human-rights-report-guatemala/.

<sup>&</sup>lt;sup>9</sup> Steven Dudley, "The Road to 2023: A Peek Into Guatemala's Criminal Past," InSight Crime, June 21, 2023, http://insightcrime.org/investigations/road-2023-peek-guatemala-criminal-past/.

<sup>&</sup>lt;sup>10</sup> Giovanni Batz, "25 Years After the Peace Accords, Democracy Weak in Guatemala," NACLA, January 21, 2022, https://nacla.org/25-years-after-peace-accords-democracy-weak-guatemala.

<sup>&</sup>lt;sup>11</sup> Adeline Hite and Álvaro Montenegro, "Guatemala's Corrupt Are Threatening to Erase Its Historic Anti-Corruption Legacy," WOLA, January 8, 2020, https://www.wola.org/analysis/guatemalas-corrupt-threaten-historic-anti-corruption-legacy/.

<sup>&</sup>lt;sup>12</sup> Hite and Montenegro.

<sup>&</sup>lt;sup>13</sup> Hite and Montenegro.

<sup>&</sup>lt;sup>14</sup> Yadira Sánchez-Esparza, "Forgetting the Past: How Guatemala's Plague of Corruption Threatens Justice," Latin America Working Group, October 20, 2022, https://www.lawg.org/forgetting-the-past-how-guatemalas-plague-of-corruption-threatens-justice/.

<sup>&</sup>lt;sup>15</sup> Dudley, "The Road to 2023."

<sup>&</sup>lt;sup>16</sup> Batz, "25 Years After the Peace Accords, Democracy Weak in Guatemala."

setbacks, reformist movements gained traction, particularly following the blatant corruption exposed in the 2010s.<sup>17</sup> These movements led to the election of reformist candidates like Bernardo Arevalo, who campaigned on anti-corruption and democratic renewal.<sup>18</sup>

This case study examines the complexities of Arevalo's dilemma, exploring the historical and contemporary contexts, the various options available to him, and the potential outcomes and impacts of his decision. Through this, the study aims to provide insights into the broader challenges of leadership, governance, and reform in fragile democracies.

#### **Contemporary Context and Political Landscape**

As President Bernardo Arevalo took office in early 2024, he faced a nation deeply divided, with the struggle between entrenched conservative elites and reformist movements reaching a critical juncture. Arevalo's election in 2023, representing the Movimiento Semilla (Seed Movement), marked a pivotal shift in Guatemalan politics. Running on a platform of anti-corruption and social justice, his victory reflected the public's desire for a break from the corruption that had long plagued the country. However, his mandate also exposed deep societal divisions, with significant support in urban areas contrasting with skepticism and hostility in rural regions still under conservative influence. <sup>20</sup>

Attorney General María Consuelo Porras continued to play a pivotal role in Guatemala's political tensions.<sup>21</sup> Appointed under former Guatemalan President Alejandro Giammattei Falla's administration, and reappointed for another four-year term in 2022, Porras had been widely criticized for her role in undermining anti-corruption efforts and protecting the interests of the conservative establishment.<sup>22</sup> Her actions included stifling investigations into corruption and targeting political opponents, thereby maintaining the status quo that benefited Guatemala's entrenched elites. Porras's primary interest lay in preserving her position and the power it

<sup>&</sup>lt;sup>17</sup> Batz.

<sup>&</sup>lt;sup>18</sup> Batz.

<sup>&</sup>lt;sup>19</sup> Agren, "Can a Reform-Minded President-Elect Change Guatemala's Political Culture of Corruption?," America Magazine, September 13, 2023, https://www.americamagazine.org/politics-society/2023/09/13/arevalo-president-guatemala-corruption-246070; Azucena Morán, "Guatemala Voted for Democracy. It Will Take More Than Anti-Corruption to Achieve It.," October 3, 2023, https://jacobin.com/2023/10/guatemala-election-bernardo-arevalo-anti-corruption-democratic-transition.

<sup>&</sup>lt;sup>20</sup> Agren, "Can a Reform-Minded President-Elect Change Guatemala's Political Culture of Corruption?"; Morán, "Guatemala Voted for Democracy. It Will Take More Than Anti-Corruption to Achieve It."

<sup>&</sup>lt;sup>21</sup> Peter Weber and The Week US published, "Anti-Corruption Candidate Bernardo Arévalo Wins Guatemala Presidential Election," theweek, August 21, 2023, https://theweek.com/central-america/1025933/anti-corruption-bernardo-arevalo-elected-guatemala-president.

<sup>&</sup>lt;sup>22</sup> Weber and published.

afforded her, which in turn enabled her to continue shielding the conservative establishment from legal scrutiny.<sup>23</sup>

The judiciary remained a critical battleground, with conservative forces leveraging it to block transparency initiatives and intimidate reformist judges.<sup>24</sup> Meanwhile, civil society, which had become a robust advocate for change after years of mobilizing against corruption, viewed Arevalo's presidency as a hopeful turning point, but faced increasing repression from the conservative establishment.<sup>25</sup> This civil resistance remained vital for Arevalo, who needed to empower these groups to counterbalance entrenched elites. The Guatemalan public, a diverse and divided stakeholder group, showed significant support for Arevalo's anti-corruption platform, particularly among urban, younger, and more educated populations who demanded swift action against Porras.<sup>26</sup> However, segments of the population, especially those in rural areas or with ties to the conservative establishment, feared the instability that could arise from a confrontation between Arevalo and the entrenched powers.<sup>27</sup>

Additionally, the Guatemalan military retained influence, particularly in national security matters, despite its diminished formal role since the Civil War. The military's historical alignment with conservative elites posed a potential obstacle to Arevalo's plans for reform, especially as he sought to neutralize their sway over key institutions. <sup>28</sup> The international community, notably the United States and the European Union, had expressed support for Arevalo's democratic mandate, offering potential diplomatic leverage. However, Arevalo had to navigate this carefully to avoid domestic perceptions of foreign interference. <sup>29</sup>

Guatemala's fragmented political party system, characterized by shifting alliances and weak party loyalty, further complicated Arevalo's efforts. His Movimiento Semilla, though gaining ground, was a minority in a Congress dominated by conservative parties, many of which were closely tied

<sup>&</sup>lt;sup>23</sup> Weber and published.

<sup>&</sup>lt;sup>24</sup> Mary Speck, "From Peace Builder to President: The Challenges Facing Guatemala's Arévalo," United States Institute of Peace, January 18, 2024, https://www.usip.org/publications/2024/01/peace-builder-president-challenges-facing-guatemalas-arevalo.

<sup>&</sup>lt;sup>25</sup> Agren, "Can a Reform-Minded President-Elect Change Guatemala's Political Culture of Corruption?"

<sup>&</sup>lt;sup>26</sup> Ana María Méndez Dardón, "Ushering in a New Period: Bernardo Arévalo's Opportunities and Challenges to Restoring Democracy in Guatemala," WOLA, January 9, 2024, https://www.wola.org/analysis/ushering-in-a-new-period-bernardo-arevalos-opportunities-and-challenges-to-restoring-democracy-in-guatemala/.

<sup>&</sup>lt;sup>27</sup> McFarland, "Sometimes the Good Guys Win," April 10, 2024.

<sup>&</sup>lt;sup>28</sup> Speck, "From Peace Builder to President"; Méndez Dardón, "Ushering in a New Period."

<sup>&</sup>lt;sup>29</sup> Méndez Dardón, "Ushering in a New Period"; Weber and published, "Anti-Corruption Candidate Bernardo Arévalo Wins Guatemala Presidential Election."

to powerful elites.<sup>30</sup> Movimiento Semilla held only 23 seats out of the total 160 seats in Congress, far short of the 81 seats required for a majority.<sup>31</sup> For impeachment proceedings against the Attorney General, Guatemalan law requires a simple majority vote in Congress. The remaining seats were distributed among several parties, with Vamos (39 seats), UNE (28 seats), and Cabal (18 seats) being the largest, and parties like Vamos and Valor-Unionist (7 seats) holding a combined 46 seats and generally aligned with the conservative establishment.<sup>32</sup> Potential allies for Arevalo might include Winaq (1 seat) and smaller progressive parties, which collectively held only about 5-7 seats, still leaving him approximately 50 votes short of what would be needed for impeachment.<sup>33</sup> Beyond overt political resistance, Arevalo also faced institutional inertia, with a state apparatus deeply resistant to change.<sup>34</sup> Bureaucratic noncompliance and the pervasive culture of corruption presented significant challenges to implementing reforms, even if legal frameworks were established.<sup>35</sup>

In this complex political landscape, Arevalo's decision regarding Attorney General Porras would be crucial. The conservative establishment was poised to resist any attempt to disrupt the status quo, while civil society groups demanded quick and decisive action. The international community's stance could either embolden Arevalo or force him to proceed cautiously. Furthermore, Porras, with her considerable influence over the legal system, represented a direct challenge to Arevalo's authority, and her removal would require a strategic, carefully executed plan to avoid severe political fallout. As Arevalo weighed his options, he was keenly aware that his actions would not only impact his presidency but would also influence the future of Guatemala's democracy and its fight against corruption.

#### **Obstacles and Constraints**

As President Arevalo contemplated his options for addressing the issue of Attorney General María Consuelo Porras, he faced a complex web of legal, political, and institutional constraints that limited his ability to act unilaterally.

<sup>&</sup>lt;sup>30</sup> Sofía Menchú, "Guatemala's Attorney General Is the Rock in the Shoe of Its New President," EL PAÍS English, February 2, 2024, https://english.elpais.com/international/2024-02-02/guatemalas-attorney-general-is-the-rock-in-the-shoe-of-its-new-president.html; Francesco Manetto, "Bernardo Arévalo and the Challenge of Tearing down the 'Corrupt Pact' in Guatemala," EL PAÍS English, January 16, 2024, https://english.elpais.com/international/2024-01-16/bernardo-arevalo-and-the-challenge-of-tearing-down-the-corrupt-pact-in-guatemala.html.

<sup>&</sup>lt;sup>31</sup> "Guatemala: 2023 Elections and U.S. Interests," Congressional Research Service, June 16, 2023, https://crsreports.congress.gov/product/pdf/IN/IN12181/5.

<sup>32 &</sup>quot;Guatemala: 2023 Elections and U.S. Interests".

<sup>&</sup>lt;sup>33</sup> "Guatemala: 2023 Elections and U.S. Interests".

<sup>&</sup>lt;sup>34</sup> Menchú, "Guatemala's Attorney General Is the Rock in the Shoe of Its New President."

<sup>&</sup>lt;sup>35</sup> Menchú.

The position of Attorney General in Guatemala holds significant power and independence, designed to be a check on executive authority. Under Guatemalan law, the Attorney General is appointed for a four-year term and can only be removed by the President for "due cause," which includes criminal behavior or serious misconduct. This legal framework was intended to protect the office from political interference, but in the context of entrenched corruption, it also made it challenging to remove an Attorney General aligned with powerful interests. Porras, having been reappointed in 2022, was less than halfway through her term, and any attempt to remove her would likely face intense legal scrutiny.

Arevalo's ability to act was further complicated by his party's minority position in Congress. The Movimiento Semilla, while gaining popularity, did not hold a majority, and many seats were occupied by parties aligned with the conservative establishment.<sup>39</sup> Thus, any legislative action against Porras, such as changing the laws governing the Attorney General's office or initiating impeachment proceedings, would require building a broad coalition in a fragmented and often hostile political landscape. The conservative bloc in Congress had already demonstrated its willingness to obstruct Arevalo's agenda, and they were likely to vigorously oppose any move against Porras.<sup>40</sup>

The judiciary presented another significant obstacle. Guatemala's court system, particularly the Constitutional Court, had the power to block or overturn presidential actions.<sup>41</sup> Given Porras's influence and connections within the judicial system, there was a high likelihood that any attempt to remove her would face legal challenges.<sup>42</sup> The courts could potentially rule such an action unconstitutional, creating a constitutional crisis and undermining Arevalo's authority.

The security forces, including the police and military, added another layer of complexity to Arevalo's decision-making. While officially under civilian control, both institutions had historical ties to the conservative establishment and had been implicated in past efforts to undermine anti-

<sup>&</sup>lt;sup>36</sup> "Guatemala Is Stuck with a Problematic Attorney General, a Legal Study Says," AP News, October 8, 2024, https://apnews.com/article/guatemala-attorney-general-porras-legal-analysis-b5066b2701cdef08874392bfbead9a30.

<sup>&</sup>lt;sup>37</sup> "Guatemala Is Stuck with a Problematic Attorney General, a Legal Study Says."

<sup>&</sup>lt;sup>38</sup>"Guatemala: Attorney General's Reappointment Threatens Rights | Human Rights Watch," May 19, 2022, https://www.hrw.org/news/2022/05/19/guatemala-attorney-generals-reappointment-threatens-rights.

<sup>&</sup>lt;sup>39</sup> Karla I Rios, "Guatemala: An Overview," *Congressional Research Service*, September 18, 2024, https://crsreports.congress.gov/product/pdf/IF/IF12340.

<sup>&</sup>lt;sup>40</sup> James Bosworth, "Guatemala's 'Coalition of the Corrupt' Is Derailing Arevalo's Agenda," *World Politics Review* (blog), October 7, 2024, https://www.worldpoliticsreview.com/guatemala-arevalo-corruption-reforms/.

<sup>&</sup>lt;sup>41</sup> Iraida Abreu and María Carrascosa, "Legal Research in Guatemala," *GlobaLex | Foreign and International Law Research* (blog), accessed October 18, 2024, https://www.nyulawglobal.org/globalex.

<sup>&</sup>lt;sup>42</sup> "Guatemala's Top Tribunal Comes under Pressure," *The Economist*, accessed October 18, 2024, https://www.economist.com/the-americas/2021/04/22/guatemalas-top-tribunal-comes-under-pressure.

corruption initiatives.<sup>43</sup> There was a risk that if Arevalo moved against Porras, elements within these forces might refuse to comply with orders or even actively work to destabilize the government. The specter of Guatemala's history of military coups loomed large, even if outright military intervention seemed unlikely in the current political climate.<sup>44</sup>

Moreover, Porras herself wielded significant power through her office. As Attorney General, she had the authority to initiate investigations and prosecutions.<sup>45</sup> There was a real possibility that if Arevalo moved against her, Porras could retaliate by launching investigations into the President or his allies, potentially on charges of corruption or abuse of power. Such actions, even if ultimately unfounded, could severely damage Arevalo's credibility and ability to govern effectively.

The international dimension added yet another factor for Arevalo to consider. While international support, particularly from the United States and the European Union, could provide some leverage and legitimacy to anti-corruption efforts, it was a double-edged sword. Too much perceived foreign influence could be used by Arevalo's opponents to paint him as a puppet of outside interests, potentially eroding his domestic support.

In this context, Arevalo had to carefully weigh the potential consequences of each course of action. A direct confrontation with Porras and the conservative establishment risked provoking a constitutional crisis, legal battles, and potential instability. On the other hand, failing to act decisively could disappoint his base and undermine his reform agenda. The path forward would require not just legal and political acumen, but also strategic patience and the ability to build broad coalitions both within Guatemala and internationally.

#### **Arevalo's Decision Options**

The decision President Bernardo Arevalo faced was not merely a question of whether to act, but of how and when to do so. The options available to him can be broadly categorized into three distinct approaches: immediate action, delayed action, and no action. Each path presented a unique set of considerations, requiring Arevalo to weigh the potential outcomes against the political realities of his nascent presidency.

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<sup>&</sup>lt;sup>43</sup> Jim Handy, "Resurgent Democracy and the Guatemalan Military," *Journal of Latin American Studies* 18, no. 2 (1986): 383–408, https://doi.org/10.1017/S0022216X00012074.

<sup>44</sup> Handy.

<sup>&</sup>lt;sup>45</sup> "Why Is the Guatemala Attorney General Going after the New President? | AP News," accessed October 18, 2024, https://apnews.com/article/bernardo-arevalo-consuelo-porras-corruption-prosecutors-cbb4d82f85c6109a4ddc095a87494d30.

1. Immediate Action: Taking immediate action to remove Consuelo Porras would be a bold and aggressive move that would signal Arevalo's commitment to fulfilling his campaign promise of eradicating corruption. By moving swiftly, Arevalo could capitalize on the momentum of his electoral victory and the widespread public support for anti-corruption measures. This approach would likely involve initiating legal or legislative proceedings aimed at dismissing Porras from her position, possibly through mechanisms such as impeachment or the invocation of constitutional powers vested in the presidency.

Such a move would reinforce Arevalo's image as a decisive leader, likely restoring public trust in the government, and potentially attracting international support, which could enhance his domestic and global standing. However, it could also provoke significant political backlash, risk destabilizing the fragile political landscape, and lead to complex legal challenges that might undermine both the effectiveness and credibility of his administration. The conservative establishment, including powerful figures in Congress and the judiciary, would likely resist vigorously, potentially leading to a constitutional crisis. Moreover, the legislative mathematics presents a significant challenge: with only 23 Movimiento Semilla representatives in Congress, Arevalo would need to convince at least 57 additional legislators from parties to reach the 51% threshold required for impeachment or constitutional changes affecting the Attorney General's office.

2. Delayed Action: A more cautious approach involves delaying action against Porras until a more opportune moment. This strategy would allow Arevalo to consolidate power, build alliances, and prepare the ground for a more calculated move against the Attorney General. Delayed action could involve quietly gathering evidence against Porras, gradually weakening her support base, or waiting for a critical juncture when her removal would face less resistance.

This method would enable Arevalo to choose a strategically favorable moment, build necessary alliances within Congress and the judiciary, and mitigate the risk of immediate political instability, ensuring a more controlled transition. It would give him time to strengthen his position both domestically and internationally, potentially increasing the chances of success when he does move against Porras. However, it risks being perceived as a sign of weakness or indecision, potentially losing the momentum from his electoral victory, and allowing corruption to persist in the short term, which could undermine his reform agenda and disappoint his supporters.

3. No Action: The final option available to Arevalo is to take no direct action against Porras, either because the risks are deemed too great or because other priorities take precedence. This approach would involve accepting Porras's continued role as Attorney

General, at least for the foreseeable future, and focusing instead on other aspects of Arevalo's reform agenda.

Such a decision would avoid direct confrontation with the conservative establishment, allowing Arevalo to focus on other pressing reforms while preserving political stability in a volatile environment. It might provide an opportunity to build his power base and implement changes in other areas, potentially weakening the overall system of corruption without directly challenging its most visible figures. However, it could be perceived as a betrayal of his anti-corruption mandate, permit continued corruption within the judicial system, and represent a missed opportunity to redefine Guatemalan politics and enact lasting change. This approach risks demoralizing Arevalo's base and emboldening his opponents, who might view inaction as a sign of weakness.

As Arevalo weighed these options, he had to consider not only the immediate consequences but also the long-term implications for his presidency, his reform agenda, and the future of Guatemala's democracy. Each path carried significant risks and potential rewards, and his decision would not only impact his presidency but would also influence the future of Guatemala's democratic institutions and its ongoing battle against corruption.

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