

## Political Risk Alert (2 Oct. 2019)

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**WillisTowersWatson** 

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### **Peru: Dissolution of Congress takes political crisis to a new level**

**Event:** President Martin Vizcarra dissolved Congress on September 30 and called new legislative elections for January 26.

**Significance:** The dissolution of Congress takes the stand-off between the executive and legislature to a new level. Leading members of Congress have rejected the legitimacy of the dissolution and demanded that Vice-President Mercedes Araoz should now replace Vizcarra. However, Vizcarra has the backing of the armed forces as well as public opinion. A 27-member permanent commission will assume the function of the legislature between now and January.

**Analysis:** The country's political crisis has moving toward this point, with President Vizcarra building public support for reforms that the opposition-dominated Congress has refused to enact. In a heated session on September 30, the congressional leadership refused to consider a government bill to amend the procedures for electing members of the Constitutional Tribunal (TC), which is responsible for interpreting the constitution and resolving disputes on matters relating to the separation of powers. Instead, the Congress moved to replace six members of the seven-member TC, although it only managed to vote on two of them before the sitting was suspended amid protests from those supporting the government position.

The night before the vote, Vizcarra warned that if Congress ignored the bill and the confidence vote attached to it and instead proceeded directly to the election of new TC members, he would move to dissolve it. He is able to do so under Article 134 of the constitution, which provides for the dissolution of Congress if it refuses two votes of confidence in the government in a single five-year term. It had previously rejected a confidence vote under Vizcarra's predecessor, Pedro Pablo Kuczynski.

Relations between the executive and the legislature have been on a downward slope ever since the 2016 elections in which Kuczynski narrowly defeated Keiko Fujimori in the second round, but in which Fujimori's Fuerza Popular party (FP) won an absolute majority in the Congress.

Keiko Fujimori only grudgingly accepted defeat, and her party did its utmost to destabilise the Kuczynski administration, finally forcing his resignation in March 2018 when Vizcarra, then vice president, replaced him.

Relations between Vizcarra and the FP leadership quickly grew tense as it became clear that Vizcarra would not be intimidated by Fujimori, and he bypassed Congress by taking his judicial reforms to a referendum at the end of last year. Supported by public opinion but lacking a party of his own in Congress, Vizcarra used the president's annual Independence Day speech in July to announce that elections for both the presidency and the Congress would be brought forward by a year to April 2020. The congressional leadership has since been working to frustrate this move.

Although Vizcarra and Del Solar have expressed increasing frustration with the delaying tactics, the constitution makes it clear that it is incumbent on Congress, and in particular its Constitution Committee, to approve the legislation needed to change the timing of the elections.

Relations reached crisis point in the last week of September. The Constitution Committee formally rejected the government's legislation on moving the elections before producing its nominations to replace the current members of the TC with known FP sympathisers. In response, on September 27, Vizcarra announced that he would send a bill to Congress amending the legislation on TC elections, and attaching to it a vote of confidence which, if refused, would enable him constitutionally to dissolve Congress.

The TC has moved centre stage because of its role in defining whether bringing forward elections is itself constitutional. It also reflected the fact that the TC is to consider whether Keiko Fujimori, the FP leader who is in jail on remand because of her alleged role in violating electoral laws, should be freed. The TC also has the ability to rule as out of order the further disclosure of identities of individuals allegedly involved in corrupt activities for having received bribes from the Brazilian construction firm Odebrecht.

There is a widespread perception that FP's congressional members include many individuals who have engaged in illicit activities or whose election was abetted by illegal organisations, including drug trafficking and money laundering interests. Its general secretary at the time of the 2016 elections, Joaquin Ramirez, is wanted by the US Drug Enforcement Administration for his alleged links to the drugs mafia.

The party's leadership in Congress strenuously opposed government reforms that would limit legislative immunity from prosecution. This was one of a series of reforms that a special advisory panel had recommended as a priority in attempts to crack down on corruption.

The FP's strategy in recent months appears to have been to push the government to overstep the mark of constitutionality in the hope of then exercising its own right to depose a sitting president. To do so, it would have needed the support of two-thirds of Congress, or 87 out of 130 votes.

Meanwhile the government has come under growing pressure from public opinion, which is overwhelmingly supportive of Vizcarra's attempts to clamp down on corruption. Polls suggest that over 70% favoured Congress' closure.

Now that Vizcarra has dissolved Congress, the leadership of FP and its allies will claim that Vizcarra misused his constitutional powers, arguing that the vote of confidence was not actually withheld and so Article 134 should not apply. However, its demand that Mercedes Araoz, the vice-president who has made no secret of her differences with Vizcarra, should become interim president is largely a hollow gesture.

The FP may be able to produce street protests against the dissolution in the coming days, but these will not be on a scale to present a major challenge to Vizcarra's position. Public opinion will side with the president, as will the governors of Peru's 25 regions. Mainstream media will also be supportive.

By contrast, business groups will maintain a more neutral position. Conservative sectors may sympathise with FP and its allies, but mainstream sectors will probably support Vizcarra, albeit grudgingly. The mining sector has been particularly critical of the president in recent weeks for not taking a more resolute line against anti-mining protesters in Arequipa.

**Looking ahead:** The dissolution will be backed by public opinion and regional governments. It will also be supported by minority parties on the left. Claims that the move is unconstitutional are unlikely to generate much support, and the FP has suffered another significant setback. The immediate impact of the constitutional crisis on the economy will be slight and could even be beneficial in the medium term if President Vizcarra can strengthen his support in the January elections.

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