

ProReforma

ProReforma is a [legal] association with the following characteristics:

1. **Civic**, because it is promoted by citizens and not government officials.
2. **Political**, because it seeks to change the current political system; nonetheless, it is non-partisan because it does not endorse candidates for president or congress.
3. **Independent**, because it is not governed by the interests of any economic or political group.

ProReforma seeks to uphold the rule of law and equality under the law, so that all Guatemalans—governors and governed, with the same rights and responsibilities—may live in a country where peace, justice and prosperity prevail. **ProReforma** proposes a political reform to the citizens of Guatemala by which specific articles of the current Constitution may be amended, leaving in tact those that are unchangeable

IT IS MADNESS TO DO THE SAME THING OVER AND OVER AGAIN AND EXPECT DIFFERENT RESULTS.

CONGRESSMEN: WE HAVE TO GIVE GUATEMALA A CHANCE BY VOTING IN FAVOR OF PROREFORMA!

Background of the Proposal

2003-2005

Various proposals were considered. The most appropriate options were written into a final proposal and the **ProReforma** Association was founded. The conclusion was that we must rethink the current political system that governs Guatemala. A project with specific constitutional reforms was drawn up with the goal of establishing a true rule of law.

2005-2008

The website www.proreforma.org.gt was created to inform the public; it includes the proposed constitutional reforms. The proposal has been presented to the general public on more than 250 occasions in Guatemala City and throughout the congressional districts in the provinces.

2009

On March 27, 2009 a group of citizens exercised their right to propose constitutional reforms, as established in Article 27 of the Constitution. A petition with 73,193 signatures in support of the proposal was presented to Congress, and the President of Congress was asked to consider the proposal immediately, as required by the Constitution.

Our Objective: Peace and Prosperity

We believe that **unemployment, lack of safety and injustice**—which have brought Guatemalans to their knees—are due principally to the absence of an authentic rule of law in the country.

Rule of Law

We understand **rule of law** to refer to a system of government that applies fair rules; these rules are stable and justice is certain due to strong institutions. **Rule of law** does not permit corruption, impunity, mafias, granting of privileges, or enactment of discretionary laws tailored for the benefit of one group at the expense of the country's citizens. The **rule of law restores the values and principles lost within a community**.

Privileges

When inequality before the law is made possible, members of congress are able to grant privileges to mercantilist oligarchies. This weakens our legislative branch, because it becomes a market of privileges. The result is discretionary, contradictory and unjust laws, which leads to a loss in the value of law.

ProReforma proposes that Article 157 of our Constitution read thus: *"Under no circumstances will the Senate or the Chamber of Representatives enact laws or decrees that are arbitrary or discriminatory, in which explicit or implicit privileges or benefits are granted that cannot be exercised by all persons in a position to do so"*.

Individual Rights

The reform will restore the preeminence of the respect for individual rights. **What individual rights does the current Constitution defend?** The right to life, liberty, equality; the right to due process, the presumption of innocence, the inviolability of the home; freedom to travel in and out of the country; the right to correspondence and documents; freedom of movement; the right to petition the government; freedom of assembly; freedom of expression, freedom of religion; the right to bear arms, the right to private property; the freedom to establish industry, commerce and the freedom to work . . .

Public interest should prevail over private interest, but not over **individual rights**. If the interests of a group are valued more than the rights of any individual, society will drift into chaos because the fundamental rights needed to live in peace are lost.

Forms of Government

Article 140 of the Guatemalan constitution establishes the form of government as **republican, democratic and representative**. The proposed reform is fully compatible with this form of government. A republic has three essential characteristics:

1. sovereign power lies with the people;
2. this power is exercised through representatives;
3. the representatives are democratically elected.

This proposal does not annul the sovereign power of the people. It does not eliminate the right to exercise this power through representatives, substitute the democratic process of election, or give power to just one branch of government.

The exercise of power is balanced among the executive, legislative and judicial branches. **ProReforma** seeks checks and balances to avoid the corruption by power of government leaders.

The Proposal for Constitutional Reform

1. CHANGES IN THE JUDICIAL BRANCH

The goal is to make the judicial branch politically and economically independent. 1. Thus, it will have the power to propose and approve its own budget, the same as with the executive and legislative branches. 2. Substitute The current nomination process for judges will be substituted by **the drawing of lots** and public hearings, in order to depoliticize the election process of candidates. 3. Judges and high court justices will hold life-terms to avoid subjecting appointments to the political interests of the government currently in power. **Grounds to remove** them from office are included in the proposal. 4. Judges will be able to propose appointments and removal of employees for their own bench .

Checks and Balances. 1. Judges and high court justices are restricted in their rights under impeachment law when the act in question is unrelated to their official duties. 2. The Comptroller General of Accounts will be appointed by the Senate and is charged with the responsibility of ensuring transparency in the use of judicial branch funds.

Certainty of punishment. A judicial branch such as the one proposed reinforces the rule of law and reduces prevailing impunity, based on the thesis that *certainty of punishment* is more important than severity of punishment.

2. FISCAL STATE ENTITIES

Public Ministry. The Attorney General will be appointed by the Supreme Court and not the President of the Republic, as is the case currently.

Comptroller General of Accounts. The Senate will chose the Comptroller General of Accounts among those nominated by the respective Senate commission. This will take place at mid-term. Currently, the Comptroller is elected by members of congress.

3. CHANGES IN THE LEGISLATIVE BRANCH. A bicameral congress.

Chamber of Representatives. The purpose of the Chamber of Representatives will be to pass legislation related to the operation of government, in other words the general administration of state resources. The Chamber will have eighty members elected as stand-alone individuals [not as a party list] by geographic region. Every two years, fifty percent of the seats will come up for election. The term of office will be four-years, and no representative may hold another public position other than one for which s/he has been elected.

The approval of budgets based on deficits or unreasonable speculation is prohibited. The creation of any new tax must be justified by stating its objective and how the projected revenue will be used.

The Chamber of Representatives also has the right to call to account officers of autonomous, semi-autonomous and decentralized government entities.

Senate: The main function of the Senate will be to enact laws that protect the basic rights of people. The term *law* is understood to be any norm that regulates relationships between private individuals, or between private individuals and the state, when the latter is functioning in the realm of **private rights**. It refers to general and abstract laws, such as civil, penal and commercial codes, etc. The Senate will be made up of forty-five members. We believe that the Senate can achieve maximum political independence through the establishment of the following four requirements:

1. A candidacy qualification based on relative age
2. A voter qualification also based on relative age
3. Long terms of office, with re-election prohibited
4. The nature of the position will be to deal exclusively with issues pertaining to “law” in general, thus making it impossible to cater special interests.

Senators and representatives will not enjoy rights under impeachment law if the act in question is not directly related to their official duties.

4. CHANGES IN THE EXECUTIVE BRANCH

We propose three ways to remove a president from office:

1. Congressional representatives will be able to remove the President from office with a 75% majority on any of the following grounds: physical or mental disability; overreaching the bounds of his/her duties to seriously interfere in the affairs of another branch of government; well-founded charges of political corruption.
2. When the president does not honor the end of his/her term and attempts to remain in office.
3. If presented with a petition signed by at least one hundred thousand registered voters, Congress must call for a public referendum that will determine if the President is to stay in office or be removed. Should the President be removed, due to the wishes of the general public, Congress will appoint a new President to finish only the current term of office.

We propose that all provincial governors be elected democratically.

How to achieve our goal? A referendum!

Citizens are learning about the proposed reforms beforehand. In this sense, we are dealing with a well-informed proposal, for which the constitutional changes that need to be made can be studied in depth. We do not propose convening a Constituent Assembly, because we have no way to predict what it might come up with.

We request that **Congress approve this project for constitutional reform** by a 2/3 majority vote, so that the citizens may decide on its approval through a **referendum**.