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Walter Mazariegos's Second Inauguration and the Failure of Institutional Checks and Balances

by Juan Francisco Sandoval

Walter Mazariegos's inauguration for a second term as rector of the University of San Carlos of Guatemala (USAC) does not mark the end of an institutional crisis that began in 2022. On the contrary, it represents the moment when that crisis reached its peak and laid bare a much deeper problem: the failure of the institutions tasked with preserving the constitutional rule of law.

It would be a mistake to reduce what has happened to a dispute over who runs the university. The real issue is something else entirely. What happens when a constitutional controversy of enormous significance remains unresolved until the passage of time turns the fait accompli into the new institutional reality? The answer is troubling: it is no longer just the rules that fail; the institutions charged with enforcing them begin to fail as well.

The University of San Carlos occupies a unique place within Guatemala's constitutional order. Its autonomy, recognized in Article 82 of the Constitution, is not a corporate privilege but a guarantee intended to protect academic freedom, critical thinking, and the independence of higher education from any form of undue interference. This autonomy also requires that university self-governance be exercised through democratic, transparent, and representative procedures.

Since the 2022 election process, various university sectors have denounced the exclusion of electoral bodies, questioned the legality of various actions, and filed lawsuits to challenge the rector's election. Regardless of the conflicting positions on these claims, the fact remains that the controversies were never definitively resolved before institutional developments continued to unfold. The recent inauguration did not dispel these doubts; it merely consolidated a situation whose legitimacy continues to be disputed by a significant portion of the university community.

This fact compels us to look beyond the university. Constitutional states rest on a system of checks and balances. When controversies arise that affect the legality of public decisions, there are bodies tasked with resolving them independently and in a



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timely manner. This function falls, at various levels, to university authorities, the ordinary courts, and, ultimately, the Constitutional Court.

However, the case of the USAC appears to demonstrate the successive failure of these mechanisms.

University bodies failed to steer the conflict toward a legitimate resolution. Legal proceedings dragged on for years without providing the certainty that the magnitude of the dispute demanded. And the constitutional court failed to provide a definitive ruling before time had completely altered the institutional landscape.

This is not to argue that the courts should necessarily have ruled one way or the other. What is truly concerning is that they did not rule with the timeliness demanded by a dispute that compromised the legitimacy of the highest authority of the public university.

That is the true precedent set by the second inauguration. When the passage of time ultimately resolves what the institutions failed to resolve, the law loses its effectiveness as an instrument for controlling the exercise of power. Reality ends up prevailing over the Constitution, and the *fait accompli* replaces the judicial decision.

This phenomenon is incompatible with a constitutional state governed by the rule of law. Constitutions do not fail only when they are arbitrarily amended or when their provisions are openly disregarded. They also fail when the mechanisms created to ensure their enforcement cease to produce effective results. A Constitution can retain its full normative force on paper and, at the same time, lose its practical effectiveness if the institutions charged with enforcing it fail—through action, omission, or delay—to exercise their functions.

The situation at USAC also prompts reflection on a broader phenomenon: institutional capture. Capture is often understood as the control of an institution by certain political or economic interests. However, experience shows that this process is rarely limited to the control of a single entity. Capture becomes entrenched when the bodies tasked with exercising oversight fail to correct abuses of power or allow them to become normalized.

From this perspective, Walter Mazariegos's second inauguration should not be analyzed solely as the continuation of a university administration. It must be understood as evidence that the oversight mechanisms were unable to respond before the conflict was practically a *fait accompli*.



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Does this mean there is no way out? Not necessarily.

The inauguration changes the legal landscape, but it does not eliminate the responsibility of constitutional institutions. If there are still pending actions related to the electoral process, it is up to the Constitutional Court to resolve them based on the Constitution and to clearly establish the scope of university autonomy and the democratic principles that must govern the administration of public universities.

At the same time, the University of San Carlos itself faces the challenge of rebuilding its legitimacy through more transparent electoral rules, effective mechanisms for resolving disputes, and genuine opportunities for participation by all sectors of the university community. Administrative stability can never replace institutional legitimacy.

The international community also has an important role to play. University autonomy is closely linked to academic freedom, freedom of expression, and the right to education—all of which are protected by international human rights law. Monitoring and support from international organizations can help strengthen these principles, always while respecting national institutions.

But even if these measures were to be adopted, the fundamental question would remain unanswered: How was it possible for a dispute of such significance to reach this point without any state institution managing to resolve it in a timely manner? That is likely the most important lesson to be drawn from Walter Mazariegos's second inauguration.

The greatest defeat is not merely the loss of legitimacy currently affecting the University of San Carlos. The greatest defeat lies in the fact that the state's system of checks and balances appears to have been incapable of fulfilling the function for which it was designed. The crisis at USAC is no longer merely a university crisis. It is a reflection of the institutional deterioration Guatemala is experiencing.

The real debate is no longer about determining who holds the office of rector at the University of San Carlos. The real debate is about establishing whether a constitutional state can accept that the most significant conflicts in public life end up being resolved not by the force of the Constitution, but simply by the passage of time.

If that logic becomes the norm, the risk extends beyond the university. It means accepting that a *fait accompli* can supersede the law and that the institutions created to check power have ceased to effectively fulfill their mission.

That would be the most serious precedent of all.



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