

Peru: Potential Implications of a Castillo Government

- The gap in expressed support for Pedro Castillo and Keiko Fujimori, candidates for the second-round presidential elections, has narrowed significantly.
- Even as Castillo softens his anti-establishment stance, uncertainty regarding his possible ascension to the presidency and his proposed governing agenda remains high.
- Castillo's new set of 10 policy commitments is a decisive step in clarifying his priorities and positions on major issues, but it needs to be fleshed out and made more concrete.

THE GAP NARROWS, BUT CASTILLO STILL IN THE LEAD

A week ago, this was Pedro Castillo's election to lose. Now it is a much more open race. Castillo's lead over Keiko Fujimori has fallen from an initial range of between 12 and 18 points, depending on the poll, to between two and six points. The latest CPI poll, released on Monday, May 10, put support for Castillo at 34.2% of voters, with 32.0% lining up behind Fujimori; this left 33.8% of voters undecided or intending to spoil their ballots.

Castillo is losing the initial advantage of being unknown. As both he and his policies have become more familiar, they have also become more vulnerable to review and criticism. The narrowing in the polling gap with Fujimori has been as much due to Castillo's personal limitations in interviews and debates as it has owed to better public knowledge of what he and his party stand for. Fujimori has sought to take advantage of this by continuing to challenge Castillo to debates after outperforming him on May 1 in their sole direct exchange so far.

Fujimori has her own baggage stemming from her contributions to Peru's political volatility in recent years and her role in her father's legacy. The Fujimori name is very controversial. The upside is that she may have a contingent of so-called "hidden" supporters who may be reluctant to voice their support for her in polls, but would nevertheless cast votes for her in secret. Still, to become Peru's next president, Fujimori would need more than the support of just these quiet partisans: she would also have to win over a sizable share of the truly undecided in order to pull level with Castillo's polling and pass him.

Markets may work in Fujimori's favour: volatility in exchange rates, equities, and rates could push wavering voters to support her as the candidate aligned with political and institutional stability. Much of society, and certainly investors, are sensitive to turbulence in the Peruvian sol.

Given recent polling trends, the race between the two candidates is in flux and no longer clearly favours a victory by Castillo in the run-off election on June 6. With between 23% and 33% of voters, depending on the poll, either undecided or indicating that they intend to spoil their ballots, there is now room, and still time, for Fujimori to overtake Castillo.

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ANTICIPATING A POSSIBLE CASTILLO GOVERNMENT: 10 NEW COMMITMENTS

There are so many uncertainties, unknowns, and contradictions surrounding Castillo that it is not easy to predict how a government led by him would behave. As it currently stands, the Perú Libre [platform](#) would pose a high risk of policy discontinuity and institutional change if a Castillo Administration were to implement it. However, Castillo did not participate in the platform's drafting and has never shown any strong personal interest in it. Castillo was recruited to the party only to stand as its presidential candidate: he does not have deep roots in the organization. The party's policy positions were largely crafted by its leader, Vladimir Cerrón, who is impeded from running for office by a court sentence following his August 2019 removal from the governor's chair in the region of Junín on charges of corruption.

On Wednesday, May 5, Pedro Castillo released a [widely-reported document](#) that pledged a possible government of his to a number of commitments. This set of promises appears to be an attempt to dispel the notion that a Castillo Government would be anti-establishment, or, more generally, that it would operate outside of the country's legal structures. The commitments emerged as a result of talks to win the endorsement of former leftist candidate Verónica Mendoza, which makes one wonder about the extent to which Castillo would feel obligated to uphold them outside of his pact with Mendoza.

Castillo has committed any future government he may lead to the following:

1. A tireless effort to defeat COVID-19, with a guarantee of vaccinations for all;
2. All government health policies would be based on scientific evidence, with comprehensive support for scientists and researchers;
3. A call for a Constitutional Assembly within Peru's current legal framework;
4. A vow to leave the presidency on July 28, 2026, without an effort to continue in power;
5. Full respect, without interference, for the independence of the judicial system;
6. The defense of human rights for all citizens and respect for all international treaties on human rights that have been signed by Peru;
7. To uphold the decisions of Indigenous people regarding the use of their territory and their ways of life;
8. To combat lawlessness, terrorism, and drug-trafficking in all their forms;
9. To seek tirelessly decisive and sustainable solutions for poverty and unemployment; and
10. Efforts to strengthen the Constitutional Court (Tribunal Constitucional), the Human Rights Ombudsperson (Defensoría del Pueblo) and regulatory institutions to serve better Peru's people and the common good.

Taken at face value, these 10 pledges are significant: they remind one of Humala's "[Hoja de Ruta](#)" or roadmap—the third of three strategy documents released by Humala during his 2011 campaign that committed him to seven "key economic and social policy themes for a government of national unity". The Hoja de Ruta was focused on economic and policy management, whereas Castillo's commitments seem to be driven by a desire to signal that he would govern within Peru's existing legal, institutional, and democratic frameworks, while leaving open the question of how he would manage the economy. Point 4 on the transition of power is a particularly notable promise, not least because it was deemed necessary to state this promise explicitly. Point 5's commitment to respect both the judiciary's independence and human rights treaties is an equally strong claim, though no mention was made of free-trade agreements (FTAs) or property rights in the final version of the 10 commitments reported above—though [published pictures](#) of a draft of the 10 points did promise "respect for property". Still, Castillo had earlier used a [Twitter thread](#) to try to reassure business people that he would respect their rights: in what he termed "a call for sanity", Castillo claimed he would lead a government "without fear" that would have "faith in all of Peru's people", ensure "complete legal security for entrepreneurs", and curb "abusive" practices by the tax authorities.

While some of the 10 commitments are undoubtedly strong, their wording leaves space for interpretation. For instance, the implications of strengthening the Constitutional Court and regulatory institutions hinge crucially on how they're fortified and for whose interests. Similarly, the creation of a Constitutional Assembly to draft a new Constitution would be an open door to all types of uncertainty, including concerns about the future of Peru's institutions and property rights. The scope and limits of these commitments may become clearer as the campaign goes on.

Castillo's 10 commitments clash on several fronts with Perú Libre's platform: it appears that Castillo is aligning himself with Verónica Mendoza and her brand of leftism rather than Perú Libre's more radical agenda. And yet, Perú Libre's Congressional delegation may still demand its say in these matters, even if it means some level of confrontation with Castillo. More intriguingly, some of the 10 commitments contradict Castillo's own past statements regarding the possible "nationalization" of key economic activities. Hopefully, these contradictions reflect a learning process in which Castillo is adapting his views as he becomes more aware of limits, conflicts, and considerations relevant to his proposals. Whether this proves to be the case or not will likely depend crucially on the composition of a Castillo Cabinet.

In short, Castillo's ten-point agenda is a decisive step in the right direction, but it needs to be confirmed and fleshed out by a number of additional steps and decisions during the remainder of the campaign. It is unlikely that uncertainty regarding Castillo's intentions will be entirely dispelled by promises on the campaign trail.

Beyond these commitments, should he be elected to the presidency, Castillo would likely govern as a populist rather than a radical. In terms of initial policy priorities, a Castillo Government would probably be focused on enhancing existing social programs and adding new ones, rather than uprooting the country's institutional frameworks. It could be distrustful of business, but would be unlikely to tamper cavalierly with property rights, though it could do so if pushed by circumstances. Although Castillo has attempted to send a reassuring message to Peru's local business community that local (i.e. non-offshore) business would not encounter interference from his administration, his messages to foreign investors have been mixed.

POSSIBLE TEAM

Castillo seems to depend on a small group of confidantes for advice, but he will need to broaden his network of support beyond the scope of Perú Libre's senior ranks if he wishes to build a workable government. His current close circle of advisors appears to share his mindset on both politics and policy, but they do not seem to have the experience or numbers needed to fill Cabinet and other key positions.

Castillo appears to be reaching out to members of former left-wing presidential candidate Verónica Mendoza's team for advice and support. If so, much would ride on which individuals are tapped to serve in government. Mendoza's team is mostly centre-left in its orientation, although it includes a few more committed leftists.

Castillo could also seek help from members of Vladimir Cerrón's 2011–14 and 2019 regional governments in Junín. Many of these figures have already made major contributions to Castillo's campaign; leaning on them further would be equivalent to giving Cerrón a substantial hand in Castillo's government—even if Cerrón himself isn't given an official portfolio or advisory post. These figures have executive experience at the regional level, but it isn't clear that they have the wherewithal to help carry a functional national administration. Cerrón and the rest of the Perú Libre party brass would represent major risks if they were to be handed effective roles in governing.

Beyond this speculation, we have almost no hints as to who might make up Castillo's economic team and cabinet. There is a non-negligible risk that his government could lack the management capabilities, experience, and personal qualities to properly run the State and to maintain prudent fiscal management.

RELATIONSHIP WITH CONGRESS

Castillo's connections to Perú Libre (PL)'s Congressional delegation are uneven: its members appear to be more radical than he is. In fact, he has evinced clear discomfort on some occasions when PL's Congressional members have made public statements—an inclination that finds further reflection in his recent pact with Mendoza.

Congressional support for a Castillo Government could end up being just shy of a working majority. It is likely to consist of 41–42 of the total 130 seats in the new Congress: 37 seats allocated to PL and 4–5 occupied by Mendoza's Juntos por el Perú, JPP. This would be 24–25 seats short of a 66-vote majority. There is also set to be a populist block of just over 40 votes, which would likely give Castillo a Congressional majority in support of populist initiatives, but not on more radical proposals. A right-wing block led by Fuerza Popular may consist of 44–45 members, just enough to block initiatives that require two-thirds majorities (i.e., 87 votes), such as changes to the constitution, impeachment of the president, and the election of new BCRP Board members. Castillo's past leadership and union experience may equip him to negotiate successfully with these divergent factions.

If relations between the presidency and Congress break down, Castillo has warned that he would consider closing Congress if it works to block his initiatives. He has not, however, repeated this statement, as he likely realizes how difficult it would be to make this happen. In fact, a move by Castillo to close Congress could lead to his own impeachment.

SEARCHING FOR PARALLELS: THE 2011 HUMALA CAMPAIGN

In the absence of firmer details on Castillo's plans and the role Perú Libre could play in them, it may be useful to consider similarities and differences with the 2011 Humala campaign to sketch out some possibilities and limits on what could lie ahead.

- 1. Experience.** Prior to running for the presidency in 2011, Ollanta Humala had already acquired ample experience on the national political stage through an earlier campaign in 2006 and his time in the military. Castillo's national experience has been primarily as a union leader, which brought him to prominence at the head of the 2017 nation-wide teachers' strike. His world view is somewhat constrained compared with Humala's owing to Castillo's lack of broader exposure.
- 2. Party.** Humala founded his own party to run in the 2006 presidential elections and, by 2011, was relatively knowledgeable about what the presidency would involve. In contrast, Castillo may have been invited to join Perú Libre mainly to put the PL on the political map and secure representation in Congress. Castillo is just learning what it is like to be on a national stage every day, to manage closely his communications, and to respond to events.
- 3. Advisors.** At this point in the 2011 campaign, it was clear that Humala had a team of experts behind him. So far, Castillo has not been able to name even a partial slate of seasoned advisors.
- 4. Cabinet.** It is worth remembering, however, that Humala did not announce the pro-market Miguel Castilla as his candidate for Finance Minister until after the second round of presidential voting in 2011. This was a key move to win confidence from the business sector. Castillo still has an opportunity to do something similar, but it's not clear whether he has the inclination or foresight to do so.
- 5. Platform.** Leading up to the run-off presidential vote in 2011, Humala disavowed his original, radical, governing agenda and formally adopted the more moderate Hoja de Ruta. Castillo's 10 points move in a similar direction, albeit with less determination and assurance.

LEGAL AND INSTITUTIONAL ISSUES

A Castillo government may try to modify Peru's legal and institutional framework, within the boundaries of his 10-point program. There is political space for him to work with Congress on this, albeit on an issue-by-issue basis.

Over the past few years, the Constitutional Court (Tribunal Constitucional, TC) has halted various initiatives led by Congress that the TC deemed unconstitutional. The relationship between Congress and the TC is currently complicated by the fact that six of the TC's seven members have exceeded their five-year terms and are due to be replaced. As a result, the future behaviour of the TC during the next president's term is subject to greater uncertainty than would be usual. Nominees proposed for confirmation by Congress must receive the support of at least two thirds of the members in Peru's unicameral national legislature, which mitigates to some extent the risk of unqualified nominees. The ball is in the court of the current Congress to name the six new members. However, Congress has been dragging its feet on this issue for months, and some analysts suspect that the nominations may be left to the new Congress that takes office in August. Once the TC's new members are appointed, they cannot be removed until their five-year term is up.

The make-up of the TC particularly matters in Peru where petitions to the Court can be brought by a large range of stakeholders. The Executive, the Attorney-General, and the public ombudsperson (i.e., the aforementioned Defensor del Pueblo) may all ask the TC to review the constitutionality of an individual law. Additionally, members of Congress can submit a request to the TC if they have the support of a quarter of the legislature's members (i.e., 33 votes). Finally, there are other popular means to bring a constitutional challenge to the TC, including via a 5,000-signature initiative from the public at large.

Over time, a Castillo Government would have opportunities to modify the behaviour of institutions beyond the TC through the appointment of new members of their leadership ranks. In many cases, Castillo would need to work collaboratively with Congress on these appointments, which could help to ensure nominees committed to institutional continuity.

In August, Peru's government will need to appoint four new members of the BCRP Board of Governors, while Congress will appoint the remaining three. A completely new Board could have a range of implications: it could extend or tighten the recently imposed interest-rate ceiling on commercial loans, shift the Board's approach to the achievement of its relatively tight 2% y/y inflation target or change the monetary-policy framework altogether (a matter purely in the hands of the BCRP), alter the Bank's liquidity programs, and/or change the BCRP's practices with respect to exchange rates.

CONSTITUTIONAL BOUNDARIES

The current [constitution of 1993](#) centralized more power in the presidency compared with its 1979 predecessor. Amongst other developments, it affirmed the president's power of veto, added line-item veto powers, and mandated that all tax laws must receive prior approval from the Ministry of Economics and Finance (MEF). The constitution allows the president to pass laws by decree so long as Congress is informed of plans to do so. It also allows the president to dissolve Congress after two censures of Cabinet, and gives the president the power to rule by decree for up to four months until a new Congress is convened.

Nevertheless, the existing constitution provides a number of checks on the Executive's power that limit any Peruvian government's scope to implement unilaterally a set of radical changes. Most notably, these guardrails apply, *inter alia*, to the following major areas of concern:

- **International treaties and agreements**, including FTAs;
- **The primacy of private enterprise over State business activities.** In spirit and, perhaps somewhat surprisingly, in practice as well, this has meant that the State can be involved in a production activity only when the private sector is not willing or able to do so;
- **Equal legal treatment of all business activity, whether private or public, local or foreign.** Local and foreign investment are subject to the same treatment;
- **Property rights, with exemptions for reasons of national security or public need.** "Public need" is generally recognized as specific to the expropriation of land for infrastructure programs, such as public highways, as occurs in most countries—but this power does leave open a possibility of broader interpretation; and
- **Protected rights to the ownership and use of foreign currency.** Any country that has gone through hyper-inflation, as Peru did in the 1980s, knows how significant access to foreign currency is. In practice, this is the legal underpinning of Peru's dual currency (i.e., sol and US dollar) economy.

Under Art. 206 of the existing 1993 constitution, the president has the right to initiate a constitutional change with the approval of Cabinet, but no provision is laid out for convening an assembly to draft a new set of foundational laws. The same article also lays out two paths by which constitutional changes can be adopted:

- Support from an absolute majority of all 130 members of Congress (i.e., at least 66) and ratification through a popular referendum, where the text of any amendments, or an entirely new draft document, has been approved by Congress; or
- Approval of two-thirds of Congress (i.e., at least 87 votes) in two successive regular sessions.

SENSITIVE POLICY ISSUES

There is a set of policy issues that Castillo has touched on across his campaign that echo themes that often get aired by left-wing presidential candidates. Looking at each of them in turn, it's less clear compared with past leaders that Castillo would be prepared to act forcefully on these issues—or that he would have the necessary support to do so.

- **Expropriations and nationalizations.** Castillo has made statements that imply he could take actions that would affect property rights and contracts for private—especially foreign—businesses. Although Castillo has talked about nationalizations of major national assets, such as the Camisea gas operations, challenging property rights does not appear to be a priority for him; legal cases and costs may deter him from pursuing such initiatives once in power. The actual extent of any follow-through on these threats will largely depend on the make-up of a Castillo Cabinet. Property expropriations go beyond the scope of a populist agenda and would not readily be supported by a majority in Congress. Additionally, tampering with contracts would lead to conflicts that would generate cases in both domestic and foreign courts that could hold up other aspects of Castillo's agenda.

- **Relations with the business community.** Castillo appears to be distrustful of business, without being outright against it. Although he has stated that he seeks to give Peruvian business “legal security”, he has been more vocally equivocal on foreign investment.
- **FTAs.** Peru has signed 21 FTAs and there seems to be little risk that these will be affected by the upcoming change in government. Even the Perú Libre platform is rather soft on the issue, noting only that the country’s FTAs would be “looked into”; the platform doesn’t imply that they would be rejected on principle, but instead ratified, modified, or repealed on a case-by-case basis. FTAs appear to sit beyond the scope of Castillo’s experience and thinking, and do not seem to be a focus. In any event, FTAs, as with all State treaties, are protected by the constitution, which, in practice, means that it would be very difficult for a Castillo Government to try to modify or repeal these agreements.
- **Pension-fund system.** A Castillo Government would be inclined to reform and possibly eliminate the private pension-fund system over time, which could likely receive support from Congress.
- **Labour laws.** Given Castillo’s background as a union leader, he is likely to promote initiatives that would strengthen unions and tighten labour rules. He would be positioned to get the backing of a majority in Congress for such moves.

POSSIBLE SCENARIOS UNDER A CASTILLO PRESIDENCY

Taking the aforementioned considerations into account, we look at three scenarios for a possible Castillo Government in descending order of likelihood.

1. **Most likely: “Moderate and messy”.** A Castillo Government could turn out to be less radical than feared, due in part to the burdens of the presidential office, the checks and balances provided by Peru’s legal and institutional frameworks, the limits imposed by public opinion, and, at least initially, Castillo’s lack of expertise in State management. The tensions we have seen between the Executive and Congress since 2016 are likely to persist. Congress may, however, work with Castillo on initiatives that challenge the business environment, including intensified regulations, partial price controls, greater control/oversight with respect to business practices, support for anti-mining social protests, and similar efforts. Institutional weakening would likely continue as both Congress and the Executive could be inclined to defy norms and precedents while at the same time gradually replacing public-sector leaders and management. Given Castillo’s narrow base of grassroots support—recall that 85% of the population voted for other candidates in the first round of the presidential elections—if he does not produce quick, popular wins, his government could see a rapid decline in its approval rating and encounter trouble moving forward on its agenda.
2. **Less likely: Changing the constitution.** Preparing a totally new constitution is likely to turn out to be much more difficult than Castillo may envision given the fragmented nature of Peru’s political community. Having said this, a revised constitution, whether it would be drafted through a Constitutional Assembly or by the current Congress, could modify appreciably the legal framework that businesses face. A new constitution would likely expand the role of the State at the expense of private interests, possibly limit the frontiers within which foreign investment can operate, and increase the role of regional governments versus the central government. Moves to initiate constitutional amendments and pass them would have to follow the procedures outlined above. Although most parties support various modifications to the existing constitution, Castillo is unlikely to be able to muster a consensus of Congressional support to move forward on a common set of changes. Instead, he may work with Congress on less sweeping, individual amendments to broaden the role of the State in the economy.
3. **Least likely: A radical political/institutional control agenda.** Although this scenario is the least likely of these three, it does have regional precedents. An attempt to stay in power beyond the existing presidential term and expand authority could be made to comply with legal formalities if it is accompanied by sufficient changes to Peru’s legal and institutional frameworks. However, this would require: (a) prior control of institutions; (b) the backing of the military; and; (c) popular support. Members of the PL, including its leader, Vladimir Cerrón, may have inclinations toward such a path, but it is not clear that Castillo does.

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