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FEATURED Q&A

Is the OAS' Human Rights Court Getting too Political?



Support for Costa Rican presidential candidate Fabricio Alvarado Muñoz, who opposes same-sex marriage, surged after the Inter American Court of Human Rights ruled that member states must recognize same-sex marriages. // File Photo: Alvarado Campaign.

Q The rise of right-wing candidate Fabricio Alvarado Muñoz, who had been polling in the single digits but then emerged as the top vote-getter in the first round of Costa Rica's presidential election on Feb. 4, was seen as a backlash after the Inter-American Court of Human Rights made public a ruling that Costa Rica and other member countries must recognize same-sex marriages. Alvarado Muñoz has called the court's decision a violation of Costa Rica's sovereignty and has threatened to pull the country out of the court if elected. The court also recently held a hearing on the controversial pardon of former Peruvian President Alberto Fujimori. Is the court right to be ruling on such controversial issues, or should these decisions be left to individual countries? Should the court be more restrained in the timing of its rulings, so as not to influence elections? Is there a danger that countries will start pulling out of the IACHR over such rulings, and what are the consequences if they do?

A Kevin Casas-Zamora, nonresident senior fellow at the Inter-American Dialogue and former vice president of Costa Rica: "One of most understated threats to democracy is the increasing tendency of unelected organs—such as courts—to wade in and adjudicate politically charged issues, on which neither a political nor a social consensus is clear and settled. When the unelected organ making the decision is an international body, the attack on popular sovereignty is twice as problematic and likely to generate a ferocious backlash. Costa Rica offers a textbook case of the dangers of adopting legal shortcuts to resolve highly controversial political issues. The impact

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TODAY'S NEWS

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Six Arrested After Drug Seizure at Russian Embassy in Argentina

An investigation lasting more than a year began after Russia's ambassador to Argentina alerted authorities of the possibility of cocaine being housed at a school connected to the embassy.

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POLITICAL

Haiti Suspends Oxfam for Two Months

During the suspension, Haiti will investigate how the British charity handled allegations of sexual misconduct among its staff members in the Caribbean nation.

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BUSINESS

Aerospace Companies Eye Rocket Launches From Brazil

Companies including Boeing and Lockheed Martin have expressed interest in launching rockets from Brazil, said Brazilian Defense Minister Raul Jungmann.

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Jungmann // File Photo: Brazilian Government.

POLITICAL NEWS

Six Arrested After Seizure of Cocaine at Russian Embassy in Argentina

Six people, including a former Russian diplomatic worker and an Argentine police officer, have been arrested, following the seizure more than a year ago of over 850 pounds of cocaine at the Russian Embassy in Buenos Aires, officials announced Thursday, The New York Times reported. "We have dismantled an international cocaine trafficking organization operating between Argentina, Russia and Germany," Argentina's security minister, Patricia Bullrich, announced at a televised news conference. The operation began when Russia's ambassador to Argentina, Viktor Koronelli, and three members of Russia's Federal Security Service informed Bullrich in December 2016 that they suspected 16 pieces of luggage located in a school on the grounds of the embassy were filled with drugs. Koronelli provided Argentine border guards with a key to enter the school through a side door. The Argentine authorities entered the school at about 2 a.m., confirmed the presence of bags containing cocaine, took the bags to a separate location and then filled them with flour and tracking devices before returning them to the school, said Bullrich, who added that the cocaine was valued at more than \$60 million. Traffickers tried several times to move the bags out of Argentina and finally succeeded in December 2017, when they were placed on a Russian government plane. Three Argentine customs officials flew to Russia to monitor the shipment, and authorities arrested two Russian men when they attempted to pick it up. The drugs never traveled to Russia—only the flour," said Bullrich. In addition to the Argentine border guards, the investigation involved the Buenos Aires police and the Russian Interior Ministry, said Bullrich. On Wednesday, Argentine authorities arrested Alexander Chikalo, who is suspected of overseeing the logistics of the shipment, and Buenos Aires police officer Iván Blizniouk, who stands accused of

providing the contacts needed to get the bags through Argentine customs, the Associated Press reported. Both of the men are Russian-Argentine citizens. "This has been one of the most complex and extravagant drug-dealing operations that Argentina has faced," Bullrich said Thursday. Another suspect, whom Bullrich only referred to as "K," was allegedly in charge of buying the drugs. He is still at large in Germany and has an international warrant out for his arrest, she said.

BUSINESS NEWS

U.S. Companies Eye Rocket Launches From Brazil

U.S. aerospace companies have expressed interest in launching rockets from Brazil's Alcântara military base, Reuters reported Thursday, citing Brazilian Defense Minister Raul Jungmann. Boeing, Lockheed Martin and other firms visited the site last December, Jungmann told reporters. "They showed interest, but I can't say whether it will materialize." Jungmann added



They showed interest, but I can't say whether it will materialize."

— Raul Jungmann

that companies from China, Russia, France and Israel were also exploring launches. However, companies from the United States will not be able to launch rockets from Brazil until the South American country signs a Technology Safeguards Agreement, or TSA, with Washington to protect U.S. intellectual property, according to the report. A previous attempt to do so in 2000 has never been ratified by Congress, but Brazilian lawmakers are expected to approve a

NEWS BRIEFS

Haiti Suspends Oxfam Great Britain for Two Months

Haiti's government has suspended Oxfam Great Britain from operating in the country for two months, following reports of sexual misconduct by some of the charity's employees, CNN reported Thursday. During the two-month period, Haiti will investigate how Oxfam handled allegations that its employees hired prostitutes in Haiti while they were delivering aid in the country following its catastrophic 2010 earthquake. On Monday, the charity apologized to Haiti's government for the scandal and has said it is putting new safeguards in place.

Moody's Changes Outlook for Colombia's Ratings to Negative

Moody's Investors Service on Thursday changed its outlook on the government of Colombia's ratings to negative from stable. The New York-based ratings agency said it made the revision because of expectations for a slower pace of fiscal consolidation and weakening fiscal metrics, as well as the risk that the new government being elected in May will not have the mandate needed to preserve Colombia's fiscal strength. "Reaching the fiscal deficit target of 2.1 percent of GDP in 2019 will be challenging given Colombia's rigid spending structure," the ratings agency said.

Uruguay, Canada Enter Digital Government Group

Uruguay and Canada have entered a group of the world's most advanced countries in the area of digital development, the Canadian government announced Thursday. The "Digital Seven" group, which also includes South Korea, Estonia, Israel, New Zealand and the United Kingdom, began in 2014 with a commitment to improve digital policy. The group also aims to improve connectivity and transparency.

new TSA that is now being negotiated with the United States. Brazil abandoned plans to build its own rockets after an explosion and fire in 2003 at Alcântara killed 21 people. With the launch last May of a \$900 million French-made satellite, the government plans to offer connectivity to 57 million citizens currently without digital access. Earlier this month, science and technology minister Gilberto Kassab said the Internet for All plan introduced by the administration of Michel Temer has become the largest social development program in the country, Brazil Tech reported.

Telefónica Files Arbitration Case Against Colombia

Spanish telecommunications giant Telefónica has filed an arbitration complaint against Colombia with the World Bank's International Centre for Settlement of Investment Disputes, or ICSID, Telecompaper reported Thursday. The case stems from a Colombian arbitration panel finding last June that the company's



Hernández // File Photo: @FabianHdezR via Twitter.

subsidiary in the Andean nation had failed to return installed telecommunication networks and infrastructure as part of agreements to provide mobile services dating back to 1994. Regulators slapped the unit with a fine of more than \$500 million, a figure the company is now contesting in court. Earlier this month, Telefónica appointed Fabián Hernández, who has handled regulatory matters at the company since 2006, as its new CEO in Colombia. He replaces Alfonso Gómez Palacio who has been promoted to director of Telefónica Hispam Norte, one of the company's newly-created

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of the ruling by the Inter-American Court on Human Rights on the Costa Rican election was explosive and, very likely, counterproductive. It changed the nature of the campaign overnight and singlehandedly caused the sudden ascent of an ultra-conservative candidate, Fabricio Alvarado, who came from nowhere to win the first round and now looks poised to prevail in the runoff. At best, the timing of the court's decision was politically insensitive, at worst it was a sign of the court's intent to impose its agenda on the electoral process and engage in policy-making. Either way, it did a major disservice to the court's credibility. Alvarado's ascent was largely due to his strident calls to pull Costa Rica out of the Inter-American System of Human Rights. His calls found an avid audience even in the country with, arguably, the strongest record of support for human rights in the Americas. It is to be expected that larger audiences could be found elsewhere. For the sake of protecting what has been a formidable safeguard against human rights violations, it is urgent that the court develop a doctrine of self-restraint, a measure of humility, and a willingness to recognize that, in case of doubt, politically charged issues should be left to each country and democratically elected institutions. Otherwise, its future will be dire."

A Peter Hakim, member of the Advisor board and president emeritus of the Inter-American Dialogue: "The court made a huge mistake in ruling so definitively on a highly controversial issue, which Costa Rica and many other Latin American nations have had little success in addressing, politically or judicially. The mistake was compounded when the ruling was announced just ahead

Latin American units, overseeing the businesses in Mexico, Central America, Colombia, Ecuador and Venezuela. Telefónica's Colombia unit this week reported stable sales results in the fourth quarter, with its number of customers up 8 percent, surpassing 17 million clients

of the country's presidential election. Long heralded for its commitment to human rights, the rule of law, and democratic principles, Costa Rica stands to pay a high price for the court's lack of restraint. With a large majority of Costa Rican voters opposed to

“Costa Rica stands to pay a high price for the court's lack of restraint.”

—Peter Hakim

same sex marriage, the presidential contest was thrown into a cocked hat, and it is left in disarray. A once-marginal candidate hostile to gay rights won the first round of balloting, the two major political parties were knocked out of contention and the court's finding became the decisive issue in the race. Whatever the outcome of the election, gay rights and related social advances have suffered a huge setback in Costa Rica—and potentially in other Latin American countries where they had been gaining steam. Worst of all perhaps, the court may have shot itself in the foot, putting at risk its own credibility and that of its sister organization, the Inter-American Commission on Human Rights, which together are two of the most effective and amply respected multilateral agencies in the hemisphere, and two of the very few bright spots of regional cooperation. Most Latin American nations strongly value the work of the court and commission, and few are likely to consider abandoning them as a result of this case. But the two agencies will be putting their reputations and budgets in

Continued on page 4

of the Movistar brand in Colombia. Worldwide, Telefónica said its profit more than tripled in the fourth quarter as compared to the same period last year despite a 4.1 percent decrease in revenue, MarketWatch reported, with quarterly profits of \$853.6 million.

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danger if they are they not more careful in distinguishing those cases that fall plainly into their authority from those, like the question of gay matrimony or the Fujimori pardon, that should be mostly left to the courts and politics of their member states.”

A **Ryan Mellske, business development manager for international arbitration at Dechert LLP:** “In this election, Costa Rica faces not just another debate about specific issues of law and policy, but more fundamentally a reckoning of different cultural responses to more than 25 years of intensified globalization. Costa Rica has in that time embraced trade liberalization, foreign direct investment and international dispute resolution, with transformative effects on the country. On the one hand, many Costa Ricans understand globalization, see opportunity in it, and are equipped to take advantage of it and enjoy it. On the other hand, there are those who are experiencing with trepidation very rapid, sweeping changes to life as they know it. Those who have achieved economic security and cultural acclimation to globalization are in a position to accommodate progressive values like same-sex marriage—and don’t mind receiving a proclamation on the issue from a supra-national institution like the IACHR.

Those who have not caught the wave, however, are clinging to traditional values as to a palm tree in a hurricane. Fabricio Alvarado owes his success in the first-round election to the latter group, which came as a surprise to the former. But the outcome serves as yet

“It is unlikely that Costa Rica would altogether leave the IACHR..”

— Ryan Mellske

another reminder, as we have lately seen in the United Kingdom, the United States, and elsewhere, of the power of political culture in what is becoming an inflection point in the era of globalization. In these circumstances, it is unlikely that Costa Rica would altogether leave the IACHR, but it is possible that a Fabricio Alvarado administration would resist enforcing certain rulings.”

The Advisor welcomes comments on its Q&A section. Readers can write editor Gene Kuleta at gkuleta@thedialogue.org.

LATIN AMERICA ADVISOR

is published every business day by the Inter-American Dialogue, Copyright © 2018

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Latin America Advisor is published every business day, except for major U.S. holidays, by the Inter-American Dialogue at 1155 15th Street NW, Suite 800 Washington, DC 20005

www.thedialogue.org

ISSN 2163-7962

Subscription inquiries are welcomed at fretrial@thedialogue.org

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