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THEDIALOGUE

FEATURED Q&A

Will Mexico Get an Independent Prosecutor General?

Mexico's attorney general, Raúl Cervantes, resigned Oct. 16. Opposition legislators had objected to allowing him to become the head of the country's new prosecutor general's office. // File Photo: Mexican Government.

Q Mexican Attorney General Raúl Cervantes resigned in mid-October after having been under fire since his appointment last year due to his close ties to President Enrique Peña Nieto and his longtime membership in the ruling PRI political party. His resignation could clear the path to naming an independent prosecutor who would have a nine-year term and who cannot be fired by the president. Though the position of independent prosecutor has been in place since 2014, the enabling legislation to name that official has not been passed, and no prosecutor has been named to the position. What led to Cervantes' departure? Will his surprise resignation significantly affect the country's justice system? Who would be a strong pick as Cervantes' replacement, and will the possibility of a change in political leadership with next year's elections influence the selection process?

A Ana Lorena Delgadillo, executive director of the Foundation for Justice and Democratic Rule of Law: "President Peña Nieto's 2014 reforms included the establishment of an autonomous attorney general's office. This is a fundamental change in a country where there is constant political manipulation of the justice system and a selective use of criminal law. The resignation of Raúl Cervantes presents both an opportunity and some risks. Currently, Mexico does not have an attorney general, nor does it have an anti-corruption prosecutor or an electoral crimes prosecutor. The person now temporarily in charge of the attorney general's office is a former deputy attorney general, whose first decision upon assuming his new position was to fire the

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Pemex Posts $5.6 Billion Loss in Third Quarter

The Mexican state oil company's loss was narrower than the one it reported in the same quarter last year.

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Lula, Bolsonaro Likely to Advance to Runoff: Poll

Former President Luiz Inácio Lula da Silva and right-wing Congressman Jair Bolsonaro are likely to advance to the second round of Brazil's presidential election, according to a new Ibope poll.

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BUSINESS

Puerto Rico Governor Moves to Cancel Controversial Deal

Puerto Rico Governor Ricardo Rosselló called for the cancellation of a controversial $300 million contract to Montana-based Whitefish Energy Holdings to help restore electricity to the island.

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Rosselló // File Photo: Commonwealth of Puerto Rico.

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BUSINESS NEWS

Puerto Rico's Governor Calls for Cancellation of Controversial Deal

Puerto Rico Governor Ricardo Rosselló on Sunday called for the immediate cancellation of a controversial $300 million contract that was awarded to Montana-based Whitefish Energy Holdings to help restore power to the hurricane-battered U.S. territory, Reuters reported. The company is based in the hometown of U.S. Interior Secretary Ryan Zinke, and Zinke's son once worked for the company. The company only had two full-time employees at the time that the contract was awarded for the work to help restore electricity to Puerto Rico, a task requiring thousands of people. However, the interior secretary has denied having anything to do with the contract, which was awarded without being put up for bids, Politico reported. "My petition to the board is to immediately invoke that cancellation clause for Whitefish and for us to move on," Rosselló said Sunday, Reuters reported. The governor added that no wrongdoing had been discovered, but said the contract had become a "distraction" amid the island's efforts at recovering from the recent hurricanes, The New York Times reported. "I am making this determination because it is in the best interest of the people of Puerto Rico," he added. The deal attracted scrutiny on Capitol Hill, as the House Committee on Natural Resources, which oversees Puerto Rico affairs, demanded that the island's power authority hand over all records related to the contract. The Department of Homeland Security's inspector general's office also said it was investigating, and Rosselló said he had ordered an audit of the contract. Additionally, the board that Congress created to oversee the U.S. territory's financial affairs requested that a federal court appoint a new manager to oversee its power utility, The New York Times reported. The power authority's chief executive, Ricardo Ramos, defended the contract. However, he said Sunday that he understood the governor's decision to cancel it because of negative publicity and the political situation surrounding the contract on the mainland.

> **"I am making this determination because it is in the best interest of the people of Puerto Rico."**
>
> **— Ricardo Rosselló**

Mexico's Pemex Posts $5.6 Billion Loss for Third Quarter

Mexican state oil company Pemex posted a loss of 101.8 billion pesos ($5.6 billion) in the third quarter, 14 percent lower than its 118 billion-peso loss during the same period last year, but breaking a three-quarter streak of posting no losses, Reuters reported Friday. The company said it was affected by a sharp drop in crude output. "Without a doubt this was a very difficult quarter in many areas, but especially in terms of our operations," said Roberto Cejudo, Pemex's deputy treasurer. Average crude production during the period was just 1.88 million barrels per day, down by 12 percent year-over-year and the first time in decades that Mexico has seen three consecutive months of output below 2 million bpd. Natural gas output was also down during the July-September period, with Pemex posting 14 percent lower output at 14.09 million cubic feet per day. Pemex said the decline in oil and natural gas output could be attributed mostly to the natural disasters that battered Mexico during the quarter, including storms and two major earthquakes that hit the country in September. However, sales during the third quarter grew by 20.5 percent to 331 billion pesos, mostly due to a recovery in prices. [Editor's note: See **Q&A** on how Mexico's upcoming presidential election will affect the country's energy sector in the Sept. 29 issue of the Dialogue's weekly Energy Advisor.]

NEWS BRIEFS

Illegal Gold Miners Burn Brazilian Government Buildings

Security has been increased in the Brazilian town of Humaitá in the Amazon region after illegal gold miners set fire to the offices of government environmental watchdogs, police officials said Sunday, Reuters reported. The miners set fire to buildings of Brazil's Environmental Protection Agency and the Chico Mendes Institute of Conservation of Biodiversity on Friday, according to the military police. The attacks came after a government task force cracked down on illegal mining by burning about 20 boats worth $20,000 each that were operating in a prohibited area near a forest reserve on the Madeira River early Friday.

Allegations of Attacks Are 'Political Manipulation': Cuban Foreign Minister

Allegations of bizarre sonic attacks that have sickened dozens of U.S. diplomats amount to "political manipulation" that is aimed at undermining relations between the United States and Cuba, Cuban Foreign Minister Bruno Rodríguez said Sunday, Agence France-Presse reported. The United States has not formally accused Cuba in the incidents, but U.S. President Donald Trump has said he holds Cuba responsible.

Chile Secretly Offered Bolivia Access to the Sea in 1975: Morales

Bolivian President Evo Morales has said Chile secretly offered Bolivia access to the Pacific Ocean through an approximately six-mile-long corridor in 1975, BBC News reported Sunday. Chile had asked for a land swap and fresh water in exchange. Morales said the offer had been revealed in files recently declassified by U.S. President Donald Trump. The 1975 offer was never acted upon, though the reasons for this are unclear.

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electoral crimes prosecutor. This situation is alarming, considering that it takes place in the context of the Odebrecht investigation, among other cases that are likely to shed light on the involvement of high-ranking government officials linked to the ruling party and serious corruption. The dismissal is yet another sign of the frequent interference of the executive branch with the justice system and shows, once again, the need for independent attorneys. Until now, the rules to elect and define the profile of the new attorney general have not been changed. Current legislation allows for the possibility of 'automatic' appointment. That is, the attorney general in charge at the moment that the new and autonomous attorney general's office is inaugurated could be named its new head for nine years, without any real selection process. We in civil society, grouped in the coalitions #FiscalíaQueSirva and #VamosPorMas, have introduced to Congress a citizen proposal to reform article 102 of the Constitution. This article defines the profile and the selection of the attorney general and the requirements to build a new institution with the capacity to effectively deal with the impunity and corruption crisis that Mexico is facing. Our lawmakers have the responsibility to decide if they want to maintain the status quo, where justice is more simulation than reality, or if they want to take the step to transform the structure and the administration of justice in Mexico."

Chad S. Purdie, partner, and Javier Coronado, Bogotá-based attorney, at Diaz Reus & Targ LLP: "Feeling that his role as attorney general was giving political cover that allowed the legislative branch to avoid fully implementing the independent prosecutor position, Cervantes chose to step aside to reverse that political pressure and force the legislature to act. Simply put, lawmakers did not want Cervantes to become the independent prosecutor, so they have taken their time in passing the enabling law. Cervantes took that excuse away from them in the hope of creating a lasting change at the highest levels of Mexico's prosecuting authorities. Should there continue to be concern about who will ultimately fill the role of independent prosecutor, the legislative delay could continue. Should the enabling laws be passed in light of the resignation, there is no question that the Mexican criminal justice system will be affected. It will mean a structural change in the prosecuting authorities that will better isolate the prosecution from political influence, freeing it up to more easily attack corruption. In the short term, however, Alberto Beltrán has been named interim attorney general, and he will likely follow much of what Cervantes was doing. Beltrán will continue in that role until the Senate selects a replacement for Cervantes. Given the fact that elections take place next year, including a change in the president, the selection of a replacement for Cervantes will likely become a political dogfight, especially considering its ramifications for the independent prosecutor's role and identity."

Eric L. Olson, deputy director of the Latin American Program and senior advisor of the Mexico Institute at the Wilson Center: "What is most important for Mexico's justice system is for it to take another step in the direction of independence—especially political and investigative independence. The current system of presidentially appointed attorneys general has undermined the credibility of the attorney general by politicizing the office and thereby weakening the rule of law in Mexico. It is very difficult for an attorney general to investigate and prosecute the very people who appointed him or her. The view that Cervantes was simply going to be appointed, without serious review, to be the new federal prosecutor and serve a nine-year term undermined the very notion of independence. It left the impression that he might serve the interests of the current government and not be the independent transformative figure so

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POLITICAL NEWS

Lula, Bolsonaro Likely to Advance to Brazil Runoff: Poll

Former Brazilian President Luiz Inácio Lula da Silva and right-wing Congressman Jair Bolsonaro would most likely make it to the second round of voting in next year's presidential election if the vote was held today, an Ibope poll showed Sunday, Reuters reported. The poll showed Lula winning 35 to 26 percent of the vote in October's election regardless of which other candidates entered in the race. Bolsonaro, who has seen gains in his popularity amid rising crime and violence in large cities like Rio de Janeiro that have been affected by the country's crippling recession, would likely win 15 percent of voters in a runoff against Lula. Lula's former environmental minister, Marina Silva, would take third place with 8 to 11 percent of the vote. Despite Lula's popularity, however, the question remains as to whether he will be able to run in the election. In July, he was convicted of receiving bribes from construction conglomerate Odebrecht in exchange for helping the company win government contracts. In August, he said his Workers' Party might have to put a different candidate on the ballot.

ECONOMIC NEWS

Argentina to Sell Euro-Denominated Bonds This Week

Argentina's government plans to sell bonds denominated in euros this Thursday, a spokeswoman from the country's finance ministry told Reuters last Friday. The South American country's government is selling one set of bonds that would mature in four to five years and another that would mature in seven to 10 years, according to Thompson Reuters IFR.

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many desired. What is most urgently needed now is a shift in focus to the technical skills that the new prosecutor will need in order to be an independent figure, and for the executive branch and Congress to take seriously their responsibility to name and confirm a capable and independent federal prosecutor. This person should not be from a political party and should represent the highest professional and ethical standards. If Mexico manages to put substance above self-interest, it will take a giant leap forward in strengthening the rule of law and regaining the trust of the Mexican people and the international community."

Octavio Rodríguez Ferreira, Justice in Mexico program coordinator at the University of San Diego: "Cervantes' resignation came as a surprise, as senators from President Enrique Peña Nieto and Cervantes' Institutional Revolutionary Party, or PRI, were pushing to name him the new independent prosecutor, through an automatic fast-track process. The PRI's maneuvers were widely criticized, due to Cervantes' party affiliation and close ties with the president. Criticism was also fueled by a corruption scandal in which Cervantes allegedly avoided a 5 percent annual tax on the value of a luxury Ferrari. While the scandal could have been a trigger, the reason for his resignation remains unclear. The new prosecutor will have the task of consolidating the criminal accusatorial system and the implementation of the new anti-corruption system, both of which will certainly be delayed but don't appear to be at risk. In fact, the consolidation of the justice system has been neglected by the federal government, while the final implementation of the anti-corruption system, despite having been praised as a big success of this administration, doesn't seem to be a political priority. President Peña Nieto and leading opposition figures agree that the appointing of the new prosecutor should take place after the presidential election in order to avoid more problems along the highly contested road for Mexico's next president."

Agustín Acosta Azcón, attorney at Carrancá, Araujo, Acosta & Riquelme in Mexico City: "Cervantes' departure was to be expected. Originally, he was the president's choice to follow the transition from attorney general to independent attorney general for a nine-year tenure. However, Cervantes became an impossible candidate. Public opinion couldn't buy his independence from the president and his inner circle. The issue goes well beyond Cervantes' qualifications. The amendment to section 102 of the Mexican Constitution is flawed. The nine-year tenure for an independent attorney general is simply unrealistic. Since 1988, no federal attorney general has been able to complete a six-year term. The challenges to Mexico's justice system are daunting. The country is undergoing a momentous change from an inquisitorial to an adversarial system. Furthermore, this effort comes amid a growing murder rate, a rise in organized crime and rampant corruption at all levels of government. Mexico's future depends on the state's capacity to re-establish government authority and rule of law. The transition to an adversarial system is deeply resented by prosecutors, the judiciary and the public. Pundits and prosecutors like to blame the new system for the failings of justice. Yet the criminal justice system is in deep crisis. As a symbol, the main building of the attorney general's office in Mexico City fell short of collapse after the September earthquake, but it has been evacuated and declared ready for demolition. The Senate has not agreed on the nomination of a special anticorruption czar, and an independent prosecutor investigating allegations of graft and illegal campaign contributions has just been sacked by the acting attorney general. Eventually someone, maybe in the next administration, will push the demolition button."

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