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FEATURED Q&A

Will Rewriting Its Constitution Solve Chile's Problems?



Chilean lawmakers this month agreed to ask voters whether the country's constitution should be rewritten. The move came amid widespread and ongoing anti-government protests. // File Photo: Wikimedia Commons.

Q Chilean lawmakers on Nov. 15 agreed to hold a nationwide referendum in April on replacing the country's constitution. Voters will be able to vote on whether they want a new constitution and whether current legislators should be part of the commission to revise the charter, as well as whether that commission will consist of all-elected representatives, political appointees or a combination of the two. Does Chile's constitution need a rewrite, and if so, what elements should a revised charter include? Is holding a referendum on the process to replace the current charter a good idea, and what will be the vote's most likely results? To what extent would a new constitution quell the protests, and what implications could redrafting the constitution have on Chile's political stability?

A **Patricio D. Navia, clinical professor of liberal studies at New York University and professor of political science at Universidad Diego Portales in Chile:** "Chile's constitution has a problem of legitimacy. Drafted under military rule, the constitution has been modified more than 40 times since democracy was restored. But, in the eyes of many people, it is still Pinochet's constitution. The constitutional process offers a unique opportunity to draft a constitution in a democratic process. Yet, the road ahead is not free from obstacles and threats. The entire process will take two years. In order for a plebiscite to be held in April, there must first be the restoration of public order. Also, constitutional assemblies can fail or fall into gridlock. The two-thirds requirement agreed upon might be a blessing, as it might induce the constitutional assembly to build broad agreements, or a curse

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TODAY'S NEWS

POLITICAL

Bolivia Appoints First Ambassador to U.S. Since 2008

Bolivia's interim government named Walter Oscar Serrate Cuellar as its ambassador to the United States. The United States and Bolivia withdrew their respective ambassadors 11 years ago.

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BUSINESS

ConocoPhillips Files Motion for Citgo Shares

The U.S.-based oil major wants to seize shares in the parent company of Citgo Petroleum in order to collect on an arbitration award against Venezuelan state oil company PDVSA.

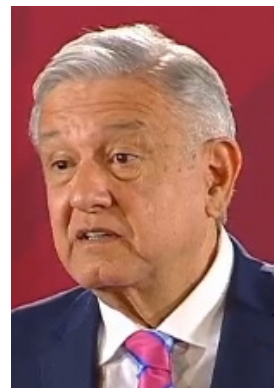
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ECONOMIC

López Obrador Eyes \$44 Bn Plan for Infrastructure

Mexican President Andrés Manuel López Obrador unveiled the first phase of a \$44 billion infrastructure plan. The private sector will largely underwrite the plan, which involves nearly 150 projects in a range of sectors.

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López Obrador // File Photo: Mexican Government.

POLITICAL NEWS

Trump Eyes Terrorist Designation for Mexican Drug Cartels

U.S. President Donald Trump said in an interview posted online Tuesday that he plans to designate Mexican drug cartels as foreign terrorist organizations. "Absolutely they will be designated," Trump told former Fox News host Bill O'Reilly in an interview posted on O'Reilly's personal website. "I have been working on that for the last 90 days. You know, designation is not that easy, you have to go through a process, and we are well into that process." Trump's statement followed the killings earlier this month of six children and their three mothers, all dual U.S.-Mexican citizens, in northern Mexico. After the massacre, Trump said in a tweet that the time had come "for Mexico, with the help of the United States, to wage WAR on the drug cartels and wipe them off the face of the earth," The New York Times reported. In the interview with O'Reilly, Trump declined to say what measures could follow the cartels' designation as terrorist organizations. When asked if drone strikes could be involved, Trump said, "I don't want to say what I am going to do, but they will be designated." The president added, "They have unlimited money, the people, the cartels, because they have a lot of money, because it is drug money and human trafficking money." Late Tuesday, Mexico's Foreign Ministry responded by saying that it had "entered into communication with the various corresponding authorities" in the United States in order "to know the content and the reach" of Trump's statements, The New York Times reported. On Monday, Mexican Foreign Minister Marcelo Ebrard said he did not expect

SUBSCRIBER NOTICE

The Latin America Advisor will not be published on Thursday, Nov. 28 and Friday, Nov. 29 in observance of the Thanksgiving Day holiday in the United States. We will resume publishing on Monday, Dec. 2.

the United States to designate Mexican drug traffickers as terrorist groups, and he said that the designation was not needed in order for the two countries to work together to fight them.

Bolivia Appoints First Ambassador to U.S. in 11 Years

Bolivia's interim government on Tuesday appointed the country's first ambassador to the United States in 11 years, BBC News reported. Walter Oscar Serrate Cuellar formerly served as the Andean country's representative to the United Nations. Under socialist President Evo Morales, who fled Bolivia amid accusations of election fraud earlier this month, the country's relations with the United States were often tense, and the two nations withdrew envoys in 2008. Facing a succession crisis after Morales resigned, right-wing senator Jeanine



Serrate Cuellar // File Photo: Bolivian Government.

Ñeiz declared herself interim president and promised to organize fair elections soon. Ñeiz signed into law on Sunday a bill annulling the results of last month's elections, which an Organization of American States audit found were severely flawed, and calling for a new vote within 120 days. "We are returning to normal after something so hard and so dramatic, but I think we are moving forward," Ñeiz told reporters on Monday, the Financial Times reported. However, Ñeiz has also antagonized Morales' supporters, who view his departure as a coup, by taking a series of steps to reverse Morales' policies. She quickly broke diplomatic ties with the socialist governments of Cuba and Venezuela, and dismissed all Morales' envoys abroad, except those to the Vatican and Peru.

NEWS BRIEFS

U.S. Blacklists Cuba-Based Company Over Venezuela Sanctions Violations

The administration of U.S. President Donald Trump on Tuesday blacklisted a company it accused of helping a Cuban state-run oil firm evade Venezuela-related sanctions, Reuters reported. Cuba-based Corporación Panamericana has been blacklisted for acting on behalf of oil import and export company Cubametales. In related news, Cuba's foreign minister, Bruno Rodríguez, on Tuesday accused the United States of violating the 2015 agreement re-establishing diplomatic relations, saying Washington was interfering in Cuba's internal affairs.

Ecuador to Tighten Rules for Mining Waste Dams

Ecuadorian Vice Minister of Mining Fernando Benalcázar on Tuesday said the government will tighten rules regulating the construction and operation of mining waste dams, Reuters reported. The new rules, aimed at preventing disasters that have occurred in other countries, will take effect in December. They prohibit the building of tailings dams close to populated areas and ban certain designs that are considered less stable.

Xoom, Paykii Ink Deal to Provide Bill Payment Service in Jamaica

San Francisco-based Xoom, PayPal's international money transfer service, on Tuesday announced it is teaming up with Paykii to offer bill payment services in Jamaica. The venture will allow Jamaican customers to use money transfers to pay their bills for electricity, telephone, Internet, cable, water, loans and insurance, according to a statement. A Mexico-based startup, Paykii provides a business-to-business platform for customers in one country to directly pay expenses for their family members back home.

ECONOMIC NEWS

López Obrador Unveils \$44 Billion Infrastructure Plan

Mexican President Andrés Manuel López Obrador on Tuesday announced the first phase of a massive infrastructure plan underwritten largely by the private sector, Reuters reported. The plan would commit some \$44 billion for 147 transportation and other public works projects over five years. While the first phase targets transportation, tourism and telecommunications, a second phase of projects will be announced in January and will focus primarily on the energy sector, according to the report. López Obrador, who has struggled to spur the country's economy during his first year in office, described the first phase of the infrastructure plan as giving a jolt to growth. "We're providing a huge push with this investment program," he said. At the event announcing the plan, Luis Niño de Rivera, the head of the Mexican Bankers Association, said banks had \$4.3 billion available a year to finance infrastructure development, the Financial Times reported. Pension funds and private investment funds could supply another \$3.3 billion, and international banks and funds were also on board, he said.

BUSINESS NEWS

ConocoPhillips Files Court Motion for Citgo Shares

Houston-based oil major ConocoPhillips on Tuesday filed a court motion seeking to seize shares in the parent of U.S. refiner Citgo Petroleum to collect on an arbitration award against Venezuelan state oil company PDVSA, which owns Citgo, Reuters reported. Several companies, including Canadian miner Crystalex, have targeted Citgo's assets as payment

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if it leads to gridlock. Many people associate a new constitution with the expansion of social rights. Since many Latin American constitutions have a long list of social rights that cannot be enforced, Chileans might end up being disappointed if the economy does not grow strong enough for the country to be able to finance those rights. Wanting the type of social rights that Nordic countries have requires levels of development and productivity similar to those of Nordic countries. There is no guarantee that the process will end well, but if we go by the ability to build consensus Chileans have shown over the last three decades of democracy, there are reasons to be cautiously optimistic about the final result."

A **Claudio Nash, president of Fundación Diálogo Jurisprudencial and an academic at the University of Chile:** "Chile needs a democratic constitution that must be approved in a participative manner, as the population has demanded these last few weeks. The current constitution was approved by the dictatorship and enshrines an ideologically compromised model favoring neoliberalism, which has become an insurmountable challenge to generating the necessary changes to resolve citizens' demands for greater equality. The proposed referendum to decide whether a new constitution is necessary and to approve the nature of the constituent body will give legitimacy to the constitutional

for debts due from either Venezuela or PDVSA. However, U.S. sanctions aimed at forcing out socialist President Nicolás Maduro have so far spared Citgo, which Maduro opponents say will be critical to providing funds needed to rebuild Venezuela's oil sector after Maduro leaves office at some point in the future. The International Chamber of Commerce last year awarded ConocoPhillips \$2 billion as compensation for Venezuela's 2007 takeover of its assets. ConocoPhillips said that PDVSA has

process. Likewise, a ratifying plebiscite is an adequate measure to engage citizens with the new constitution. It is expected that a fully chosen constitutional convention is the mechanism for which the majority will opt. In substance, this constitutional agreement must account for the centrality of human rights as an essential part of the new bases of democratic coexistence. This constituent process has been one of the citizens' demands, but it does not exhaust their demands for substantial improvements to their quality of life and for a thorough review of the economic and social models inherited from the dictatorship, which has generated deep inequities in the country. Chile has an opportunity to achieve a political and social agreement that is unprecedented in its history, for which a leadership capable of channeling citizen demands will be required. It remains unclear who will assume this leadership, or if it will remain blurred amid the thousands of protesters who demonstrate daily in the streets of Chile."

A **María Cristina Escudero, member of the systematization committee in the participative stage of the constitutional process in 2016 in Chile and adjunct professor at the University of Chile:** "The political agreement signed on Nov. 15 to begin the constitutional process responds to citizens' demands that began in 2006 with the first student movements. This demand has been growing to the extent of becoming a central theme in the

Continued on page 4

made \$754 million in installment payments toward that award, but the company has lately fallen short in scheduled payments, giving ConocoPhillips the right to enforce the award. In its filing Tuesday, Conoco acknowledged that actually seizing the shares in Citgo parent PDV Holding would be "more complicated" and that much depended on the "status and interpretation of sanctions, authorizations and/or licensing from the Office of Foreign Assets Control of the U.S. Department of the Treasury."

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2013 electoral campaign, in which President Michelle Bachelet was elected. She began a process, with considerable resistance from the political elite, but she had enormous citizen backing. In that case, there was no agreement with regard to the mechanism, and with Piñera's victory in the 2017 elections, the issue was buried. It is no surprise that the constitutional pact re-emerged strengthened this time around. In surveys, more than 80 percent of respondents say they want a new constitution, and an ample majority favors a constitutional assembly. Currently, citizens identify the constitution as an obstacle to mitigating inequality. In this sense, the new constitution must review the role of the state—currently a subsidiary role—and how it guarantees social rights. It should also achieve a balance between the representative principle of democracy and the complementarity citizen participation. These were all issues present in the citizen participation process that took place in 2016. Citizens have tended to value the agreement, but doubts have arisen about the role of independent candidates. According to electoral law, only political parties and independent candidates inscribed in parties'

lists can run. Therefore, there is pressure regarding issues such as the election of independents outside of parties, gender parity, quotas for native peoples and a participation mechanism similar to councils that can pro-

“Currently, citizens identify the constitution as an obstacle to mitigating inequality.”
— María Cristina Escudero

vide input to the convention. The implementation of the agreement has yet to be refined, and there are several challenges ahead, the main one being that the agreement has to protect social legitimacy. Although the constitutional process can channel social unrest, this has not been sufficient to quell it, and more than a short-term social agenda is expected, one that the executive has not yet unveiled.”

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

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Erik Brand
Publisher
ebrand@thedialogue.org

Gene Kuleta
Editor
gkuleta@thedialogue.org

Anastasia Chacón González
Reporter
achacon@thedialogue.org



Michael Shifter, President

Rebecca Bill Chavez, Nonresident Senior Fellow

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The Battle for Bolivia

An Inter-American Dialogue Discussion with
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Jaime Aparicio, Former Bolivian Ambassador to the U.S.
Marcela Escobari, Brookings Institution
John Walsh, Washington Office on Latin America

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