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FEATURED Q&A

Does Argentina's Judicial System Need an Overhaul?



Argentine President Alberto Fernández has proposed a package of reforms for the country's judiciary. // File Photo: Argentine Government.

Q Thousands of protesters took the streets of Argentina's largest cities this month in protest of the government's sweeping proposals for judicial reform, which critics say is an attempt by President Alberto Fernández to manipulate the court system at a time when his vice president, former President Cristina Fernández de Kirchner, is under investigation for alleged corruption. What aspects of Argentina's judiciary need the most improvement? What are the main points of the government's reform plan, and do they address the judicial system's core problems? Why has the proposal sparked controversy, and how might such a reaction affect its passing?

A Jorge Argüello, Argentina's ambassador to the United States: "The demonstrations that recently took place in Argentina are the result of diverse slogans, not solely a consequence of the judicial reform project. The establishment of this new judicial structure does not in any way affect the natural judge principle. All investigations and trials in progress will continue to be under the jurisdiction of the judges currently processing them. Therefore, it is incorrect to say that this reform benefits a certain person. What the government is proposing is nothing other than to consolidate an independent justice system, governed by the highest standards of transparency to improve procedures promptly and efficiently. The bill is divided into three parts. The first creates the federal criminal justice of the federal capital. The number of courts is expanded; this takes into account that crimes have become more complex and the number of criminal offenses that judges must deal with have increased, while the structure of the justice

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TODAY'S NEWS

ECONOMIC

Mexico's Economy Contracts 18.7% in Second Quarter

In the second quarter, Mexico's economy contracted 18.7 percent year-on-year and 17.1 percent as compared to the first. It was Mexico's worst quarterly performance on record.

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BUSINESS

Energy Company Drops Suit Against Ex-Venezuelan Oil Minister

U.S.-based Harvest Natural Resources dropped its lawsuit against former Venezuelan oil czar Rafael Ramírez.

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ECONOMIC

Former Presidents Call for Delay in Vote for IDB Head

Several former Latin American presidents want to delay the planned vote for the next head of the Inter-American Development Bank. The U.S. nominee, Mauricio Claver-Carone, has been a controversial selection.

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Claver-Carone // File Photo: U.S. State Department.

ECONOMIC NEWS

Former Presidents Want Vote Delayed for Leader of IDB

A group of former Latin American presidents and prime ministers have signed a letter calling to delay the planned Sept. 12 vote for the next president of the Inter-American Development Bank, Reuters reported Wednesday. A delay would be the “politically sensible” decision, said the former leaders, who include Brazil’s Fernando Henrique Cardoso, Colombia’s Juan Manuel Santos and Mexico’s Ernesto Zedillo, Reuters reported. Spain’s Felipe González was also among those who signed the letter. In June, the administration of U.S. President Donald Trump said it would nominate an American, Mauricio Claver-Carone, to head the IDB. The nomination of Claver-Carone, the current head of Western Hemisphere affairs at the U.S. National Security Council, broke an unwritten agreement since the bank was founded that it would always be headed by a Latin American. The former Latin American presidents’ call to delay the vote also reflects the possibility that Trump could lose re-election on Nov. 3 and that his candidate might find it difficult to work with a new Democratic presidential administration, Reuters reported. The former heads of state said proceeding with the vote as scheduled on Sept. 12 would cause the IDB “irreparable” damage. “It would be an arbitrary imposition that we have no doubt would have very negative consequences for the future of the institution and the future of the relationship between the United States and Latin America,” the letter said. More than a dozen countries support Claver-Carone, including the conservative governments of Brazil, Colombia and Bolivia, The New York Times reported. However, critics, including Argentina, fear that putting Claver-Carone at the helm of the IDB could turn the organization into a vehicle for the Trump administration’s policy in Latin America. The governments of Argentina and Costa Rica have said they plan to name their own candidates to lead the institution, Reuters reported. Claver-

Carone is still the only official candidate ahead of a Sept. 10 deadline for nominations—two days before the planned vote. [Editor’s note: See related [Q&A](#) in the June 25 issue of the Advisor.]

Mexico’s Economy Contracts 18.7% in Second Quarter

Mexico’s economy contracted 18.7 percent in the second quarter as compared to the same period a year earlier, according to revised data released Wednesday by state statistics agency Inegi, Reuters reported. Compared to the first three months of the year, the country’s GDP dropped 17.1 percent in the second quarter. It was Mexico’s worst quarterly performance on record, El Financiero reported. The dire figures had been expected, as Mexico halted much

Mexico’s economy could contract by as much as 12.8 percent this year, according to the central bank.

of its economic activity and urged citizens to stay home in an effort to curb the spread of the novel coronavirus. Certain sectors gradually began to open in June. Secondary activities, including manufacturing, construction and the energy sector, were particularly hard hit by the lockdowns, plunging 25.7 percent in the second quarter. Services fell 16.2 percent. Primary activities, such as agriculture and forestry, only contracted slightly, by 0.2 percent. The quarterly contraction was much worse than the poorest-performing quarter of the financial crisis in the April-June period of 2009, when Mexico’s GDP fell 7.7 percent, El Financiero reported. It also marks the fifth consecutive quarterly contraction at annual rates. Under the current government of President Andrés Manuel López Obrador, the economy grew only during the first quarter of 2019, by 0.07 percent year-on-year. Mexico’s central bank on Wednesday said the

NEWS BRIEFS

Social Investment in Colombia Key to Ending Violence: Gov’t Official

The presence of the armed forces alone will not stop a recent wave of mass killings in Colombia, Rafael Guarín, the presidential advisor for security, told journalists during a video event on Wednesday, highlighting that social investment is key to ending violence, Reuters reported. Separate attacks over the last two weeks in regions where drug trafficking and illegal mining are common have prompted anger and criticism from Colombians and human rights organizations, Reuters reported.

Bolsonaro Says He Rejected Guedes’ Proposal for Cash Welfare Program

Brazilian President Jair Bolsonaro said on Wednesday that he had rejected a proposal by Economy Minister Paulo Guedes for a new cash welfare program, Renda Brasil, because it would imply cutting other social programs, Reuters reported. The president and his economy minister are also split over the government’s plan to extend emergency pandemic payments to low-paid and informal workers until the end of the year, which Guedes wants to cut from the current 600 reais (\$106) to less than 200 reais.

Board of Brazil’s Banco Inter Approves Terms for Follow-on Share Offering

The board of directors for Brazil’s Banco Inter has approved the terms for a follow-on share offering, the lender said Wednesday in a securities filing, Reuters reported. The bank plans to sell 14.5 million common shares as well as 29 million preferred shares, according to the filing, which added that the shares are expected to be priced on Sept. 3. Based on Tuesday’s closing prices, the offering would be worth 885.95 million reais (\$160.8 million).

country's economy could contract by as much as 12.8 percent this year if the worst-case scenarios materialize, Reuters reported.

BUSINESS NEWS

Energy Firm Drops Suit Against Former Venezuelan Oil Czar

A Houston-based energy company on Wednesday dropped a lawsuit against Venezuela's former oil czar, Rafael Ramírez, whom it had accused of demanding \$10 million in bribes in exchange for the approval of an asset sale in the Andean nation, the Associated Press reported. In a filing Wednesday in federal court in Houston, Harvest Natural Resources dropped the lawsuit without providing a reason



Ramírez // File Photo: Venezuelan Government.

for the sudden reversal. Ramírez said that no settlement had been reached and that Harvest's unilateral action came when it realized he would fight their accusations to the end. Lawyers for Harvest did not comment. "I have spent years serving my fellow Venezuelans with one objective in mind: building a stronger, more prosperous Venezuela," Ramírez said in a statement. Harvest had won a \$1.4 billion judgment against the former Venezuelan official, but the U.S. District Court for the Southern District of Texas set the award aside last year, ruling Ramírez had not been properly notified, Reuters reported. Ramírez oversaw Venezuela's oil industry for a decade as oil minister and president of state oil company PDVSA until he broke ties with current President Nicolás Maduro.

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system has not expanded. The second part unifies the federal administrative and civil commercial jurisdiction. The third part proposes strengthening the federal justice system in the country's provinces. This bill was sent to Congress so that the different political blocs and parties can introduce the changes and amendments they consider relevant. Along with the bill, an advisory board for strengthening the judiciary and the public prosecutor's office was created. To this end, jurists of undisputed technical expertise—and diverse political backgrounds—have been summoned for the task of rethinking the way the judicial branch functions. The government proposed the bill with the sole purpose of it being debated in Congress and for it to be discussed by all. In this way, every member of Congress can contribute and amend what they deem necessary in order to create an improved justice system."

A Daniel Sabsay, professor and director of the postgraduate department of constitutional law at the University of Buenos

Aires: "The judicial reform under discussion in Argentina is made up of a series of acts and projects that lead to one clear objective: Vice President Cristina Fernández de Kirchner's impunity in the numerous processes that involve her for the commission of extremely serious acts of corruption that include her children and the main officials who accompanied her during her two administrations. The Senate is discussing a measure that seeks to modify the federal criminal jurisdiction, a law regarding the public ministry and trials. An advisory council has been created to modify the Supreme Court, pointing to its expansion. The initiative is unconstitutional, as it violates Article 109 of the Constitution, which bans the president from meddling in the judiciary. In the advisory council, there are judges below the level of those in the national court as well as the lawyer of Fernández de Kirchner, whose cases would end up being

reviewed by the modified court. When speaking of acts involved, I refer to the transfer of judges, attempts to remove the country's attorney general and modifications to the prosecution jury, among others, all aimed at placing in power officials loyal to the current administration. A clause has been added to

“It is a reform that is neither necessary nor timely...”

— Daniel Sabsay

the bill that would be approved in the Senate, which obliges judges to denounce before the Council of the Magistracy pressures that journalists have exerted in ongoing judicial processes. It is a dangerous form of indirect censorship of the press, in violation of Article 13.3 of the American Convention on Human Rights. In short, it is a reform that is neither necessary nor timely, amid a pandemic, and one that aims to create a judicial system dependent on political power and which aspires to implement a plan of impunity for the corruption committed during the Kirchner administrations."

A Benjamin Gedan, senior advisor to the Latin America program and director of the Argentina Project at the Woodrow Wilson

Center: "President Alberto Fernández's diagnosis is accurate: Argentina's federal judiciary is sluggish, partisan and corrupt. Many of his proposals make sense. Extra judges and prosecutors might speed the wheels of justice and diminish the influence of potentates on the bench. An adversarial system would see judges cede power to defense attorneys and prosecutors during trials. But the protesters who assembled on Avenida 9 de Julio rightly fear the reforms are designed to shelter Cristina Fernández de Kirchner and her allies from credible corruption charges. After all, Fernández

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has downplayed the cases against his vice president as 'lawfare,' and he appointed her personal lawyer and other loyalists to a commission to shape a broader judicial overhaul. Tellingly, his legislation ignores the justice system's principle flaw: the troubled Magistrates Council, which nominates and supervises judges. But other criticisms, such as complaints about the cost of new judges, miss the point; the spending would be negligible compared to the investment Argentina could attract by genuinely improving the rule of law. (The World Economic Forum ranks Argentina 112 out of 141 countries for judicial independence.) Objections to the timing also ring hollow. Argentina is chronically in crisis; to await calmer times is to postpone reform indefinitely. Indeed, this flawed reform push could still produce prudent changes. The president lacks a legislative majority and moderates in his party, including Sergio Massa and Juan Schiaretti, could shape a sensible bill. Fernández de Kirchner might be behind the legislation, but any 'vamos por todo' strategy would torpedo the reform."

A **Gloria Orrego Hoyos, professor of legal research methods at Universidad de San Andrés and Universidad Torcuato Di Tella:**

"Argentina's judiciary needs to improve on certain problematic points. Transparency and efficiency are necessary, as are facilitating the application of the adversarial system in criminal matters and the transfer of nonfederal powers to the city of Buenos Aires. Additionally, it requires incorporating gender diversity in its structure and selection processes. It's also necessary to produce statistics on cases and policies for the allocation of human and material resources according to objectives, design suitable institutional structures for the new process and monitor compliance with established ob-

jectives and their costs to weigh the modifications' efficiency. The government's reform plan seeks to decentralize the federal justice system, unify jurisdictions and chambers, create prosecutors' and defense offices, transfer powers to the city of Buenos Aires and re-establish guidelines to guarantee judges' independence. This is presented as an opportunity to strengthen provinces' federal justice systems on the basis of a project promoted by the previous government, with 94 new courts and 85 prosecutors' offices. As such, it seeks to generate rules of action to guarantee judges' independence and avoid pressure from power groups. It also proposes the creation of an advisory council of renowned jurists, who would submit proposals to strengthen the judiciary and the Public Ministry. Critics argue that the creation of new courts seeks to generate control of justice in the provinces, as well as the enormous expense that the addition of judicial positions will require amid a deep economic crisis. It is also problematic that the creation of practically double the number of courts and prosecutors' offices at the federal level is carried out through sub-agencies and not through competitions and that there is no gender parity mandate in the integration of final positions. One of the most controversial points is that judges will have to 'communicate' to the Council of the Magistracy pressures of 'political, economic or media powers, members of the judicial, executive or legislative powers, friends or pressure groups of any nature,' which is considered an attack on freedom of expression. Critics believe that Kirchnerismo's proposed reform not only seeks impunity, but also to intimidate journalists."

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

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