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FEATURED Q&A

Is AMLO Ending Accountability in Public Works?



Mexican President Andrés Manuel López Obrador gave his administration broad leeway in approving public works projects. // File Photo: Mexican Government.

Q President Andrés Manuel López Obrador's government on Nov. 22 issued a decree requiring Mexico's federal agencies to automatically approve any public works project that the government designates to be "in the national interest" or that involves "national security." The move eliminates environmental, feasibility and accountability reviews for projects that would receive a year-long "temporary" approval, during which time the projects could potentially get underway. What are the reasons behind the government's decree? What types of projects could result from the decree? Who will the decree most benefit, and who will it harm?

A Luis Rubio Barnetche, partner at Holland & Knight: "The president's decree is an unconstitutional effort to evade any accountability and transparency in the projects that his administration approves. It will also ensure that judicial challenges—the greatest thorn in his administration's side—will be considerably reduced. Indeed, under Mexican law, national security and national interest constitute some of the very few exceptions to administrative transparency, and any public body can now deny public access to information regarding a public project. These rules also allow for expedited processes for permits for any federal project. This ensures that the administration will fast-track all of its projects before the president's term ends in 2024. The decree covers a variety of sectors, such as telecommunications, customs, environmental, tourism and health. Therefore, the federal administration can now continue developing three of its most appalling and wasteful projects (among many others). First is the Felipe

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Colombian Police Killed at Least 11 in Protests: Report

Colombian police officers killed at least 11 people during violent protests that erupted in September 2020, according to a U.N.-backed report.

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Ecuador Declares Force Majeure on All Oil Contracts

Ecuador declared force majeure on all of its contracts with oil companies. Recent flooding forced the shutdown of the country's two main oil pipelines.

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POLITICAL

Kast Narrows Gap With Boric Ahead of Chile Presidential Vote

Far-right Chilean Presidential candidate José Antonio Kast has narrowed the gap between him and leftist Gabriel Boric ahead of the second round of Chile's presidential election on Sunday, a new poll shows.

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Kast // File Photo: Facebook Page of José Antonio Kast.

POLITICAL NEWS

Colombian Police Killed at Least 11 in Protests: Report

Colombian police officers killed at least 11 people during protests in September of last year during protests that were sparked by officers' beating death of a taxi driver, according to a United Nations-backed report released Monday, the Associated Press reported. From Sept. 9-11, 2020, Colombian police perpetrated a "massacre" against people in low-income neighborhoods, the 182-page report said. The violence worsened because police were unprepared to handle large crowds that had gathered in front of police stations, and their superiors did not order them to refrain from using their weapons against protesters, said the report, which Bogotá's city government had commissioned. "Everyone made mistakes on the 9th and 10th of September, except for the victims of this tragedy," said Carlos Negret, an attorney and human rights expert who headed the study, the AP reported. "Police acted with disproportionate use of force and went after the poorest people in the city." The report was based on interviews with police officers, members of the victims' families and more than 90 witnesses. The United Nations provided financial and technical support for compiling it. In the September 2020 protests, demonstrators set 17 police stations on fire in Bogotá after video emerged of police officers detaining and then beating 44-year-old taxi driver Javier Ordoñez, who had been drinking on a sidewalk, the AP reported. Ordoñez died of his injuries later that night. Following the incident, National Police patrol officer Juan Camilo Lloreda was sentenced to 20 years in prison and fined approximately \$370,500 in connection with the death, CNN reported. "The events of police violence, abuse and brutality that begun in the early hours of September 9 with the murder of Javier Ordoñez at the hands of National Police officers triggered one of the most serious episodes of human rights violations in the history of Bogotá," the U.N.-backed report said. Earlier

this year, dozens of people died during protests that were sparked by government plans for tax increases, the AP reported. Police could be implicated in 25 of those deaths, according to Human Rights Watch. The protests led to numerous accusations of brutality by police officers who were trained during Colombia's long armed conflict with the Revolutionary Armed Forces of Colombia, or FARC, rebels. "Still built to combat a wartime enemy, the police are ill-suited to the challenges of shepherding peaceful protests and protecting communities," Elizabeth Dickinson, senior analyst for Colombia at International Crisis Group, told the Advisor in a [Q&A](#) published June 17. The report calls on Colombia's government to give municipalities greater control of police forces, the AP reported. Currently, Colombia's defense ministry has authority over the country's police.

ECONOMIC NEWS

Ecuador Declares Force Majeure on All Oil Contracts

Ecuador's Ministry of Energy and Non-Renewable Natural Resources on Sunday declared force majeure for oil companies that maintain contracts with the state, El Comercio reported. The ministry said it made the decision because erosion in the Coca River has led to the halt of the transportation of crude oil through the Trans-Ecuadorean Pipeline System and other oil transport channels. Meanwhile, state-run Petroecuador announced that, under its Operational Contingency Plan, it will implement a progressive shutdown of wells. The government said Petroecuador has sufficient stock of oil in storage and is guaranteeing the normal delivery of gasoline, diesel, jet fuel, electric fuel oil and LPG for domestic use. Soil erosion has been an ongoing problem in the area. A landslide in April last year severed several crude pipelines, triggering spills and a temporary output reduction of almost 60 percent, Bloomberg News reported. Ecuador exported about 345,000 barrels a day of crude

NEWS BRIEFS

New Poll Shows Kast Narrowing Gap With Boric in Chile Presidential Race

Far-right Chilean presidential candidate José Antonio Kast has narrowed the gap with leftist Gabriel Boric ahead of Sunday's presidential runoff election, Reuters reported today, citing a private survey from pollster Cadem. The poll showed Kast with 36 percent support. That would translate into a 52 percent-to-48 percent win for Boric, putting the race nearly within the poll's margin of error of 3.1 percentage points. The Cadem poll also showed that a quarter of people were still undecided or did not plan to vote.

More Than 40 People Killed in Gasoline Truck Explosion in Haiti

A truck carrying gasoline exploded in the northern city of Cap-Haïtien on Monday, killing more than 40 people and injuring dozens of others, the Associated Press reported. Prime Minister Ariel Henry, who has called for three days of national mourning, said his administration was deploying field hospitals to the area to help those affected. Shortages of fuel in Haiti and high prices have led to a black market and informal trading in fuel. Last week, at least one person was killed and dozens were injured when a gas tank exploded at a warehouse in Trou-du-Nord, The Haitian Times reported.

Venezuelan Oil Minister Returns to Work, Denies Report He'll Be Replaced

Venezuelan Oil Minister Tarek El Aissami said Monday that he was returning to work after hernia surgery, and he denied a Reuters report that President Nicolás Maduro was planning to replace him, the wire service reported. "Here we are, in good health," El Aissami said in an online video of him bouncing a ball and shooting some baskets at a basketball court.

in October, while importing roughly 112,000 a day. Conservative President Guillermo Lasso hopes to generate \$19 billion in investments and boost oil production to 1 million barrels per day by the end of his term in 2025, Reuters reported last month. The Energy Ministry plans to hold at least four auctions in 2022 to award oil blocks and the operation of Esmeraldas, its largest refinery, to private companies.

BUSINESS NEWS

Cogna Educação Expects Growth From Kroton Unit

Brazil-based education company Cognia Educação said Monday that it is expecting its higher-education unit, Kroton, to return to revenue growth in 2023, Reuters reported, citing executives who spoke at an investor event. The forecast follows a reorganization at Cognia, in which the higher-education unit launched 42 digital courses and implement a cost-cutting plan in recent months, the wire service reported. The changes have led to greater optimism at Cognia of growth of in-person classes in the coming year. "We believe there will be a recovery in student recruitment from 2022," said Kroton's president, Roberto Valerio. He added that the company does not need further revisions to its physical structure. In-person classes generate higher tuitions for Kroton, while courses that cost less have migrated online, said Valerio. Earlier on Monday, Cognia predicted that its KrotonMed business, which provides health-related higher-education courses, would produce net revenue of 482 million reais (\$85.88 million) next year, Reuters reported. KrotonMed is also expected to produce earnings before interest, taxes, depreciation and amortization, or EBITDA, of 224 million reais next year, according to a securities filing. [Editor's note: See [Q&A](#) about the extent to which the Covid-19 pandemic has reversed education gains in Latin America in the Jan. 5 issue of the Advisor.]

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Ángeles airport, a project that began after the unilateral cancellation of the previous administration's new Mexico City airport project. Second is the Mayan Train project, which will generate nothing short of an environmental and humanitarian disaster. Third is the Olmecca refinery, which seeks to ensure that Mexico remains dependent on traditional fuels instead of moving toward renewable clean energy sources. This decree is a reprehensible abuse of power that should have no place in a modern democracy. Even worse, it reflects, once again, that the president will continue to impose politically driven decisions under the guise of social or public interest."

A Nicolás Mariscal, member of the Advisor board and chairman of Grupo Marhnos in Mexico City: "The federal government wants to accelerate the construction of major public infrastructure projects, which can be delayed for different reasons. Among them is the permitting processes related to feasibility and accountability studies, which different laws require and which usually take months to get the necessary approvals, in addition to trials that stall projects that are already under construction, thus increasing costs. As the result of the decree, public works projects declared as 'in the national interest' or matters of 'national security' will be exempted from the obligation to disclose information to the public, contrary to the G20 Principles for Quality Infrastructure Investment. The types of infrastructure projects that could fall into this category are broad: transportation, telecommunications, customs, border protection, hydraulic, environmental protection, health, energy, and even tourism. The decree could benefit the construction sector in general, particularly the companies that are able to participate in the projects. This will represent a significant opportunity to recover from the impact of Covid-19 because the construction sector's activity is still 23 percent below its 2018

level. Under the present administration, however, the army is performing most of the major construction projects. As open societies, we are committed to accountability and transparency. Therefore, a decree like this one has the potential to affect the environmental, social, and governance areas, making it even more complicated to achieve the sustainable development goals and the 2030 U.N. Agenda."

A Pamela Starr, senior advisor at Monarch Global Strategies and professor at the University of Southern California: "Personal frustration with construction delays for his priority infrastructure projects helps explain AMLO's Nov. 22 decree. His Mayan Train project is an estimated five months behind schedule due to delays associated with environmental permits and legal challeng-

“All contracts associated with these projects will be shielded from the transparency that could detect contracting irregularities.”

— Pamela Starr

es. Concerned that his core infrastructure projects will not be finished before he leaves office in 2024, AMLO sped up the process by exempting them, and all other public infrastructure projects, from bureaucratic review. Further, by labeling federal infrastructure projects as essential to 'national security,' all contracts associated with these projects will be shielded from the transparency that could detect contracting irregularities. It seems likely that the constitutionality of a decree that places the federal executive above the law will be challenged. But given the close relationship between AMLO and the Supreme Court president, a quick review seems unlikely. Instead, AMLO's priority projects—

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the Mayan Train, the Felipe Ángeles airport and the new Dos Bocas refinery in Tabasco—are apt to be nearing completion before a decision is reached. The damage done to the rule of law in Mexico by this decree is very concerning, and the message it sends is chilling: The law in Mexico, whether protecting individual rights, private contracts, or the rules of democratic politics, apparently does not apply when it gets in the way of the president's agenda. While the decree may have been a one-off, the precedent it sets is disconcerting."

A José Antonio López Meza, Mexico-based civil engineer and structural and seismic engineering consultant: "The reason behind the decree is to streamline bureaucratic procedures and accelerate the start of important works. In reality, the intention is to prevent citizens from seeking to halt projects. The decree covers projects and works that are considered priorities and/or strategic for national development. However, among the country's many infrastructure needs, it is unclear how one project can be designated a priority over another. The president has been emphatic about the Mayan Train project, but I am unaware of other projects that are of public interest and national security. Undoubtedly, the result will be projects that lack preliminary studies and ignore all the requirements established by law. If the agency in charge does not issue a response within a period of five days, the rul-

ing is confirmed, and the work begins. This will not end well in terms of quality of construction and accountability. Also, requests for information on any of these projects

“Remember what happened with Metro line 12 in Mexico City. What other tragedies can we expect?”

— José Antonio López Meza

will be rejected because they are related to national security. Remember what happened with Metro line 12 in Mexico City. What other tragedies can we expect? The country and the users of infrastructure built under this decree will not benefit. It is a fact. In a country with such high rates of corruption and impunity, it is unthinkable to relax regulations and remove mechanisms that are supposed to prevent Mexico's cancer—the indiscriminate violation of laws. There will probably be no bids for these projects, and they will be assigned to companies by direct award, or by employing SEDENA. For now, the president will be the biggest beneficiary as the obstacles that impeded the advance of the Mayan Train have been removed."

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

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