

## BOARD OF ADVISORS

### Diego Arria

Director, Columbus Group

### Devry Boughner Vorwerk

Corporate VP, Global Corporate Affairs  
Cargill

### Joyce Chang

Global Head of Research,  
JPMorgan Chase & Co.

### W. Bowman Cutter

Former Partner,  
E.M. Warburg Pincus

### Dirk Donath

Senior Partner,  
Catterton Aimara

### Barry Featherman

Senior Director,  
International Government Affairs,  
Gilead Sciences

### Marlene Fernández

Corporate Vice President for  
Government Relations,  
Arcos Dorados

### Peter Hakim

President Emeritus,  
Inter-American Dialogue

### Donna Hrinak

President, Boeing Latin America

### Jon Huenemann

Vice President, U.S. & Int'l Affairs,  
Philip Morris International

### James R. Jones

Chairman,  
Monarch Global Strategies

### Craig A. Kelly

Director, Americas International  
Gov't Relations, Exxon Mobil

### John Maisto

Director, U.S. Education  
Finance Group

### Nicolás Mariscal

Chairman,  
Grupo Marhnos

### Thomas F. McLarty III

Chairman,  
McLarty Associates

### Carlos Paz-Soldan

Partner,  
DTB Associates, LLP

### Beatrice Rangel

Director,  
AMLA Consulting LLC

### Gustavo Roosen

Chairman of the Board,  
Envases Venezolanos

### Andrés Rozental

President, Rozental &  
Asociados and Senior  
Policy Advisor, Chatham House

### Shelly Shetty

Head, Latin America  
Sovereign Ratings, Fitch Inc.

### Roberto Sifon-Arevalo

Managing Director, Americas  
Sovereign & Public Finance Ratings,  
Standard & Poor's

## FEATURED Q&A

# Is Mexico's New Justice System Functioning Well?



Implementing Mexico's justice reforms was one of President Enrique Peña Nieto's "few laudable achievements," David Shirk and Octavio Rodríguez say below. // File Photo: Mexican Government.

**Q Mexico one year ago implemented a sweeping reform of its justice system, replacing a system based on written testimony with an open-trial system, in part to protect the rights of the accused. How well is the new system functioning?**

**To what extent has the reform lived up to its promises? What will be the long-term impact of the reform?**

**A** David Shirk, director, and Octavio Rodríguez, program coordinator, of the Justice in Mexico program at the University of San Diego: "Mexico's new, oral adversarial system went live throughout the country in June 2016; it gives criminal defendants better legal protections by forcing authorities to adhere to due process. Implementing this new system was one of the few laudable achievements of PRI President Enrique Peña Nieto. However, just over one year after going into effect, Peña Nieto has largely abandoned his support for the reform, and Mexico's mostly PRI governors are lobbying to go back to the old, inquisitorial model. Opponents claim protections for the accused have contributed to recent violence by allowing criminals to go free. Yet, under Mexico's old, inefficient 'mixed-inquisitorial' system, impunity reigned. The vast majority of crimes went unreported, uninvestigated and unpunished. Meanwhile, Mexican law enforcement frequently violated criminal defendants' rights: demanding bribes, forcing confessions and manufacturing evidence. Thus, most Mexican judges, prosecutors and public defenders strongly supported the transition to the oral adversarial system. Our organization found in the 2016 Justiciabárometro survey that 80-90 percent of these judicial system operatives favored the

Continued on page 3

## TODAY'S NEWS

### POLITICAL

## Colombia Offers Asylum to Venezuela's Ortega

Colombia's government has offered asylum to former Venezuelan Attorney General Luisa Ortega Díaz who broke with President Nicolás Maduro over his government's creation of the country's powerful new constituent assembly.

Page 2

### BUSINESS

## Brazil Eyes Privatization of Eletrobras

Brazil's Mining and Energy Ministry said it would propose the power utility's privatization.

Page 2

### POLITICAL

## Ecuador's Top Prosecutor to Present Graft Case Against VP

Vice President Jorge Glas faces corruption charges, which he denies, related to the corruption scandal involving Brazilian construction conglomerate Odebrecht.

Page 2



Glas // File Photo: Ecuadorean Government.

## POLITICAL NEWS

## Colombia Offers Asylum to Venezuela's Ortega

Colombia's government on Monday offered asylum to Venezuela's former attorney general, Luisa Ortega Díaz, who broke with President Nicolás Maduro's government over his government's creation of the country's new powerful constituent assembly, Agence France-Presse reported. "Luisa Ortega is under the protection of the Colombian government. If she asks for asylum, we will grant it to her," said Colombian President Juan Manuel Santos. The constituent assembly fired Ortega earlier this month and replaced her with a government loyalist. Ortega and her husband, National Assembly lawmaker Germán Ferrer, arrived in Colombia on Friday on a private flight from Aruba. Ortega was facing prosecution in Venezuela for alleged misconduct, and Ferrer was facing an arrest warrant issued by the Maduro-allied Supreme Court on corruption charges. Ortega has said the charges against her amount to "political persecution."

## Ecuador's Top Prosecutor to Present Graft Case Against VP

Ecuador's top prosecutor, Carlos Baca, on Monday said he would present a corruption case against Vice President Jorge Glas, Reuters reported. President Lenín Moreno stripped Glas of his authority earlier this month over corruption allegations related to the scandal involving Brazilian construction conglomerate Odebrecht. Baca said his office has evidence of "illicit association" against the embattled vice president. "We will request the National Court of Justice set a hearing date against Jorge Glas, the vice president," Baca read from a statement to reporters. At least 92 of the 137 sitting members of Ecuador's Congress must vote to allow an investigation of a sitting vice

president and to allow prosecutors to present evidence to the court. Glas denies wrongdoing. "I have never allowed corruption or been a part of it," he said after Baca's statement. Brazil's Odebrecht is at the center of a massive corruption scandal in which the company paid politicians bribes across Latin America and in other countries around the world in exchange for securing lucrative contracts. The company has already paid \$3.5 billion in settlements in the United States, Brazil and Switzerland, and plea bargain testimony from Odebrecht employees has embroiled politicians throughout Latin America in the scandal. [Editor's note: See related [Q&A](#) in the July 14 issue of the Advisor.]

## ECONOMIC NEWS

## Infrastructure Woes Crimping Argentina's Renewables Growth

Argentina's next renewable energy auction in November will be for half the capacity of last year's auction, due to insufficient infrastructure affecting the country's ability to increase its renewables capacity, Bloomberg News reported Monday. The government will auction just 1.2 gigawatts of renewable power, mostly wind and solar projects, which energy trading company SAESA has projected will attract some \$2 billion in investment, down from the 2.4 gigawatts of renewable projects tendered last year that brought in approximately \$4 billion. "We don't need to auction all renewable capacity now, said Energy Minister Juan José Aranguren. "We'll have, at the same time, transmission line auctions and solve the bottlenecks." The government plans to award contracts for eight new transmission lines to accompany the clean power expansion. The country currently has limited transmission infrastructure that reaches the regions that are ideal for wind and solar power generation. Argentina needs to add approximately 3,100 miles of transmission lines over the next three years in order to keep pace with its growing renewables capacity.

## NEWS BRIEFS

## Chile's Constitutional Court Upholds Easing of Abortion Ban

Chile's Constitutional Court on Monday upheld a ruling that would allow abortion in some cases, ending the country's total ban on the procedure, the Associated Press reported. The court's vote allowed legislation that would legalize abortions if a woman's life is in danger, when a fetus is not viable and in cases of rape. President Michelle Bachelet said she will sign the measure into law. Chile had previously been the last South American country to have a complete ban on abortions.

## Brazilian Government Eyes Privatization of Eletrobras

Brazil's Mining and Energy Ministry on Monday gave notice to the country's state-owned power utility, Eletrobras, saying that it would propose privatizing the company as the government struggles to close the country's record-setting budget deficit, Reuters reported. The ministry gave Eletrobras notice of the plan and said publicly that it would bring the proposal to President Michel Temer's special council on privatizations. The model for privatizing the utility and the terms of the privatization have not been decided, but the government would keep its right to veto some strategic decisions for the company, the ministry said.

## Argentine Banks Seeing Loan Portfolio Growth

Argentine banks are seeing strong growth in loan portfolios, Euromoney reported today. Results from Banco Macro and Banco Galicia have shown loan portfolio growth of more than 20 percent in real terms. The corporate sector is leading the growth in credit demand, though banks have also seen an increase in mortgages and retail lending, the magazine reported.

## FEATURED Q&amp;A / Continued from page 1

new system, a 20-25 percent increase since our last survey in 2010. Clearly, Mexico's new criminal justice system represents an enormous change, and will require future efforts and adjustments to become fully functional. But going back to the old system is a bad idea and that must be actively resisted. Rather than lowering standards for conviction, the key to the success of the new system rests in increasing prosecutorial effectiveness in the face of proper scrutiny that comes with an adequate legal defense for the accused."

**A** **Gonzalo Escribano, senior government relations consultant at Speyside Mexico:** "Since the passage of the judicial reform in 2008, only six states, Chihuahua, Durango, Morelos, Nuevo León, the State of Mexico and Yucatán have been able to comply with implementation deadlines. In addition, the reform has come under fire from Mexican governors, who blame rising levels of insecurity on the reform itself. Undoubtedly, the rule of law remains Mexico's Achilles' heel. Recent economic reforms, numerous free-trade agreements and responsible macroeconomic management of the country stand in stark contrast to the deficient quality of the judicial system, putting a drag on economic growth. The judicial reform called for procedural changes at many levels of the government and civil society, such as training judges, the police and public prosecutors, and ensuring lawyers adjust their modus operandi to the new rules. Over the past eight years, Mexico did not sufficiently invest in education and training to make the reform fully operational. For instance, the Mexican forensics teams are far from equipped to face challenges posed by the growing numbers of disappeared persons related to violent organized crime. The complexity of the reform's implementation is significant, because it entails a change in bureaucratic and political structures, as well as a deeply ingrained culture. Without the

proper leadership and commitment, the judicial reform will remain under attack by state governments that are failing to put their full weight behind implementation. For these reasons, the future of Mexico's judicial system remains cloudy. Its eventual success,

“Without the proper leadership and commitment, the judicial reform will remain under attack by state governments...”

— Gonzalo Escribano

however, is crucial to improving Mexico's capacity to fight crime and impunity, and to promote social justice. Making sure Mexico's judicial system is strengthened is critical for the country's competitiveness and will affect its ability to attract foreign investment moving forward."

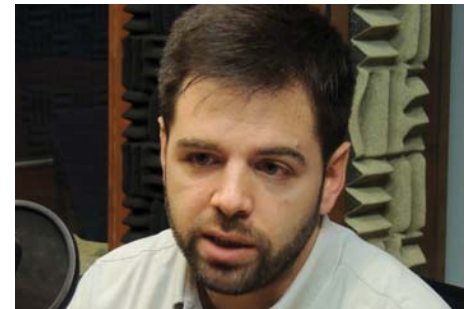
**A** **James R. Jones, member of the Advisor board, chairman of Monarch Global Strategies and former U.S. ambassador to Mexico:** "Legislation to reform Mexico's judicial system started in 2008 with the demand that it be fully implemented in eight years. A major part was changing to an open trial system with oral arguments from a closed system with only written statements. A legal system is the basis for values of any nation. Mexico's closed civil code system over the years bred too much corruption and a loss of confidence among citizens. States were slow to implement the reforms. Even for those states that met the deadlines, the quality of trials still needs much improvement. Many states sent judges and prosecutors to the United States and Europe to be trained for this entirely new system. Training in how to develop, produce, present and preserve evidence was needed. The important thing is that Mexico

Continued on page 4

## BUSINESS NEWS

## Banks in Uruguay Refusing Business With Pharmacies

Some banks in Uruguay are refusing to do business with pharmacies that are selling marijuana, following the government's legalization of the drug, the Associated Press reported Friday. Uruguayan banks that do business with pharmacies in the South American nation risk violating international financial laws that bar them from receiving money linked to marijuana, an unnamed government official told the wire service. Legal marijuana sales began in July at 16 pharmacies under a 2013 law that made Uruguay the world's first nation to legalize the drug from its planting to purchase. However,



Olivera // File Photo: Uruguayan Government.

one pharmacy in Montevideo has opted not to sell marijuana after the local branch of Spain's Banco Santander issued a warning to the pharmacy. Uruguay's largest bank, state-owned Banco República, has told pharmacies that sell marijuana that they must close their accounts. The secretary-general of Uruguay's National Drugs Council, Diego Olivera, has said that authorities are meeting with pharmacies in order to determine how many of them have received warnings from banks. Officials are examining potential solutions, said Olivera, who did not elaborate. "Without doubt, in these processes of changing paradigms, they run up against moments of difficulty," said Olivera, the AP reported. Former President José Mujica, who is now a senator, has said there will be "gridlock" in the country's legislature if lawmakers do not resolve the problem.

## FEATURED Q&amp;A / Continued from page 3

seems committed to making it work. That is a significant development. Making trials more transparent to the public should create more confidence in the judiciary as it will eventually make all officers of the courts including judges and adversary lawyers more efficient and competent. A first-world nation is defined by an open political system, a competitive free market and a transparent legal structure. Mexico is truly first world in its reformed political and economic systems. Now Mexicans must insist that the rule of law and judicial structures also become first world."

**A** Luis Manuel Pérez de Acha, partner at Pérez de Acha, Ibarra de Rueda y Asociados in Mexico City: "Mexico's new criminal justice system, known as 'Sistema Penal Acusatorio,'—an adversarial system—was established in 2008. By June 2016, judges, lawyers and prosecutors had to be ready for the new system's implementation. The main principles of the adversarial system seek to ensure the rule of law and the right to access to justice, through oral trials in which the prosecution and defense will be treated as equals. The new system is a paradigm shift in Mexican criminal justice, which suffers from major deficiencies. At present, there is

a lack of suitable training for a significant number of judges, lawyers and prosecutors around the country. A debate has been raised over the way in which the presumption of innocence principle will be put into

““ The main principles of the adversarial system seek to ensure the rule of law and the right to access to justice...”

— Luis Manuel Pérez de Acha

practice. There is no reliability if under the adversarial system the prosecution could be able to prove the guilt of the offenders. A second problem that Mexican authorities will face is the fact that under the new system, prisoners under preventive detention can ask to be released while their criminal trial is being processed. While it is estimated that the adversarial system in Mexico will be fully implemented by 2024, it's possible that this transition will take longer."

*The Advisor welcomes comments on its Q&A section. Readers can write editor Gene Kuleta at [gkuleta@thedialogue.org](mailto:gkuleta@thedialogue.org).*

## LATIN AMERICA ADVISOR

is published every business day by the Inter-American Dialogue, Copyright © 2017

**Erik Brand**

Publisher  
[ebrand@thedialogue.org](mailto:ebrand@thedialogue.org)

**Gene Kuleta**

Editor  
[gkuleta@thedialogue.org](mailto:gkuleta@thedialogue.org)

**Nicole Wasson**

Reporter, Assistant Editor  
[nwasson@thedialogue.org](mailto:nwasson@thedialogue.org)



**Michael Shifter**, President  
**Genaro Arriagada**, Nonresident Senior Fellow  
**Sergio Bitar**, Nonresident Senior Fellow  
**Joan Caivano**, Director, Special Projects  
**Michael Camilleri**, Director, Peter D. Bell Rule of Law Program  
**Kevin Casas-Zamora**, Nonresident Senior Fellow  
**Ariel Fiszbein**, Director, Education Program  
**Alejandro Ganimian**, Nonresident Fellow  
**Peter Hakim**, President Emeritus  
**Claudio Loser**, Senior Fellow  
**Nora Lustig**, Nonresident Senior Fellow  
**Margaret Myers**, Director, China and Latin America Program  
**Manuel Orozco**, Director, Migration, Remittances & Development  
**Jeffrey Puryear**, Senior Fellow  
**Tamar Solnik**, Director, Finance & Administration  
**Lisa Viscidi**, Director, Energy Program  
**Denisse Yanovich**, Director of Development and External Relations

**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](http://www.thedialogue.org)

ISSN 2163-7962

Subscription inquiries are welcomed at [freetrial@thedialogue.org](mailto:freetrial@thedialogue.org)

The opinions expressed by the members of the Board of Advisors and by guest commentators do not necessarily represent those of the publisher. The analysis is the sole view of each commentator and does not necessarily represent the views of their respective employers or firms. The information in this report has been obtained from reliable sources, but neither its accuracy and completeness, nor the opinions based thereon, are guaranteed. If you have any questions relating to the contents of this publication, contact the editorial offices of the Inter-American Dialogue. Contents of this report may not be reproduced, stored in a retrieval system, or transmitted without prior written permission from the publisher.

LATIN AMERICA ADVISOR

# Energy Advisor

The answers to questions that informed executives are asking ... every week.

Upgrade your subscription with the Inter-American Dialogue's weekly Energy Advisor. Send an email to [freetrial@thedialogue.org](mailto:freetrial@thedialogue.org) today.

SUBSCRIBE