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FEATURED Q&A

Will Nunes Win Confirmation to Brazil's High Court?



Brazilian President Jair Bolsonaro is nominating Kássio Nunes Marques (pictured) to the country's Supreme Court, frustrating some of Bolsonaro's supporters. // File Photo: Brazilian Government.

Q Brazilian President Jair Bolsonaro on Oct. 2 announced his intention to nominate Kássio Nunes Marques to the country's Supreme Court, frustrating evangelicals whom Bolsonaro had promised he would nominate one of their own. Bolsonaro nominated Nunes to replace Celso de Mello, who is retiring as he approaches the court's age limit of 75. Why did Bolsonaro nominate Nunes? Will he be confirmed by Brazil's Senate? What are the most important cases coming before the court, and how might Nunes sway its decisions?

A Peter Hakim, member of the Advisor board and president emeritus of the Inter-American Dialogue: "After an exceptionally chaotic and undisciplined first two years in office, including a deeply flawed approach to Covid-19, Bolsonaro finally seems to have turned to a somewhat more pragmatic, organized approach to pursuing his political objectives, rebuilding public support and getting himself re-elected two years hence. He has made impressive progress on all of these fronts in recent months and demonstrated an unexpected talent for Brazil's traditional political infighting and maneuvering. Despite Brazil's exceptionally high Covid-19 infection and death rates, a flailing economy and unprecedented job losses, the president has raised his national approval ratings, mainly by delivering a sizable aid package to lower-income Brazilians. Following months of open feuding, he has also improved his working relations with Congress and the Supreme Court, where Kássio's appointment was widely welcomed. In Kássio, Bolsonaro chose a conservative, but well-respected, jurist with considerable judicial

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U.S. Immigration Agents Returned Hondurans From Guatemala: Report

U.S. immigration agents stationed in Guatemala violated the terms of their funding by detaining and returning Honduran migrants, according to a U.S. Senate report.

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Venezuelan Coal Exports Rise Amid U.S. Sanctions

Venezuela's coal exports to Europe have reportedly risen as U.S. sanctions have constrained the country's oil exports.

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Mexico Signs Deals With Drug Companies for Covid Vaccines

Mexican President Andrés Manuel López Obrador's government signed agreements with three pharmaceutical companies to secure eventual Covid-19 vaccines for more than 100 million people through next year.

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López Obrador // File Photo: Mexican Government.

POLITICAL NEWS

U.S. Agents Returned Hondurans From Guatemala: Report

U.S. immigration agents stationed in Guatemala violated the terms of their funding by detaining Honduran migrants on their way to the U.S. border and returned them to their home country last January, according to a report published Tuesday by Democrats on the U.S. Senate Foreign Relations Committee. U.S. agents reportedly rented three 12-passenger vans and hired drivers to transport Hondurans back to the border on Jan. 15 in an unauthorized operation. The move "was conducted in an improvised manner without any protocols in place to address security considerations or ensure the personal safety and human rights of the migrants," according to the report, which added that the Department of Homeland Security recognized it had violated terms of an inter-agency agreement by using funding from the State Department's Bureau of International Narcotics and Law Enforcement Affairs for the operation. The agents were in the Central American nation to train local police on counternarcotics and other security-related efforts, The Wall Street Journal reported. The Department of Homeland Security did not respond to the newspaper's request for comment.

ECONOMIC NEWS

Venezuela Reportedly Increasing Coal Exports to Europe

Venezuela has been increasing its exports of coal to European nations as it seeks new sources of foreign income amid tightening U.S. sanctions, Reuters reported Tuesday. The Andean nation's coal exports tripled last year to 310,000 metric tons, generating almost \$40 million, according to U.S. trade database

Comtrade. The increased exports followed sanctions that the United States imposed on Venezuelan state oil company PDVSA in January 2019. This year, Venezuela's coal exports have already surpassed last year's total, with the country exporting 365,000 metric tons through the end of June, which generated \$37 million, the database showed. Neither Venezuela's information ministry nor state-owned coal company Carbozulia responded to Reuters' requests for comment, and the U.S. State Department did not respond to the wire service's request for comment. Venezuela has lost billions of dollars in oil revenues amid the U.S. sanctions. So far this year, Venezuela's central bank has received just \$477 million in hard currency, as compared to \$40 billion in 2014. Venezuela's annual production of coal grew from less than 100,000 metric tons in 1988 to eight million metric tons in the mid-2000s, according to the U.S. Geological Survey, Reuters reported. That growth made Venezuela Latin America's third-largest producer of coal, behind Colombia and Brazil. The future of U.S. sanctions could change depending on who wins next month's U.S. presidential election. Marta Colomar Garcia, a partner at Miami-based law firm Diaz Reus, told the Advisor in an [interview](#) last month that if Trump is re-elected, his administration could slap "many more sanctions" on countries including Venezuela, Cuba and Nicaragua. If Trump's challenger, former Vice President Joe Biden, is elected, Colomar Garcia said some U.S. sanctions in Latin America, particularly ones targeting Cuba's government, could be eased or withdrawn.

BUSINESS NEWS

Mexico Signs Deals With Companies for Covid-19 Vaccines

Mexico's government on Tuesday signed agreements with three drug companies in order to secure Covid-19 vaccines for more than 100 million people through next year, The Wall Street Journal reported. Under the deals,

NEWS BRIEFS

Cuba, China, Russia Win Seats on U.N. Human Rights Council

Cuba, China and Russia on Tuesday won seats on the United Nations Human Rights Council despite opposition from activist groups over their human rights records, the Associated Press reported. Cuba and Russia were running unopposed for the seats, but China was in a five-way race with countries including Saudi Arabia for a contested seat on the rights body.

Laureate Education Transfers Control of Management in Honduras

Laureate Education announced Tuesday that it had reached a definitive agreement with Fundación Nasser to transfer control of Fundaempresa, which manages Laureate's operations in Honduras' Universidad Tecnológica Centroamericana (UNITEC), including the Centro Universitario Tecnológico (CEUTEC). Nonprofit foundation Fundación Nasser has more than 20 years working in Honduras on initiatives focused on education, social development and entrepreneurship, according to the statement. UNITEC and CEUTEC together enroll more than 23,000 students in university-level courses.

Mexico Freezes More Than 1,300 Bank Accounts in Money Laundering Probe

Mexican authorities said Tuesday that they have frozen 1,352 bank accounts that purportedly laundered approximately \$125 million on behalf of 14 criminal gangs, including some of the country's largest drug cartels, the Associated Press reported. Mexico City police chief Omar García Harfuch said some suspects and money found in recent raids were linked to the Jalisco Cartel, though he said independent criminals have been known to use the names of cartels to intimidate victims without actually belonging to the gangs.

Mexico plans to purchase eventual vaccines from Britain's AstraZeneca for 39 million people, from U.S.-based Pfizer for as many as 17 million people and from China's CanSino Biologics for 35 million people, the newspaper reported. Additionally, Mexico is participating in the international Covax vaccine alliance, through which it plans to secure enough doses for approximately 26 million people. Last Saturday, Mexico's government announced that it had made a payment of \$159.88 million in order to secure access to Covid-19 vaccines through the Covax plan, which is backed by the World Health Organization, Reuters reported. The payment to the alliance that administers Covax will allow Mexico to secure enough

López Obrador said he hopes to start vaccinating people as early as December.

doses to vaccinate a fifth of the country's population, the wire service reported, citing Mexico's foreign ministry. Mexican President Andrés Manuel López Obrador has said he hopes to begin vaccinating people in December "or in the first quarter of next year at the latest," The Wall Street Journal reported. Additionally, Mexico plans to participate in phase 3 clinical trials that CanSino is carrying out, and it is in discussions to participate in trials with U.S., German, Russian, French and Italian companies, said Foreign Minister Marcelo Ebrard. The vaccines are expected to cost Mexico approximately \$1.7 billion. In addition to the more than \$159 million that Mexico has already paid, the government plans to increase prepayments to \$321 million by the end of the year. In a survey of 1,000 Mexicans that polling firm Consulta Mitofsky conducted from Oct. 9-11, 34 percent of respondents said they would try to be among the first to get an eventual vaccine if it were inexpensive or free of charge. [Editor's note: See related [Q&A](#) in the Sept. 8 issue of the Advisor and the Advisor's July 1 [interview](#) with Arachu Castro of Tulane University on vaccine nationalism.]

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experience, rather than an ideological bedfellow. The new judge, however, will replace Bolsonaro's most vocal critic on the court and its most forceful human rights defender. Still, the appointment will not be enough to end the high-visibility Lava Jato corruption probes, as Bolsonaro has called for, but it may help to protect his politically engaged sons from investigations already in progress. By lowering frictions with Congress and the courts and shifting toward the more traditional politics of Brazil, Bolsonaro has enhanced his allies' chances in this November's municipal elections, and may open the way for him to determine the next speaker of the house, a particularly vital political post. Most importantly, he has reduced the prospects of a conservative candidate emerging to challenge him in the 2022 presidential election. And aside from Lula, who will likely remain ineligible to run, the left seems to have no serious candidates at all."

A **Jessica A.J. Rich, assistant professor in the Department of Political Science at Marquette University:** "Bolsonaro nominated Nunes to please the Centrão, a broad coalition of center-right politicians, and to protect himself from corruption investigations. This nomination shows that Bolsonaro is breaking with his far-right ideological faction, led by U.S.-based former astrologer Olavo de Carvalho, in favor of embracing established presidential politics. In Brazil, presidents traditionally build broad cross-party coalitions—a governing strategy referred to as 'coalitional presidentialism.' Nunes is a perfect appointment to please the Centrão. His most clearly defined characteristic as a judge is not ideological but, rather, his good relations with a broad spectrum of politicians. In fact, Nunes was nominated to his current position as federal judge under President Dilma Rousseff of the Workers' Party (PT) as part of her own effort to court Centrão support. Nunes is also a perfect appointment for Bolsonaro to shut down

the impending corruption investigations that threaten his presidency. In Brazil, he is known as a 'guarantor judge,' an informal title bestowed on judges who nearly always vote in favor of protecting 'the accused'—in this case, referring to white-collar empresarios and politicians accused of corruption. While 2020 proves anything is possible, all signs point to Nunes' confirmation. His nomination faced a potential setback when evidence surfaced that he plagiarized his master's thesis and falsely claimed to have held a postdoctoral fellowship. Yet he continues to count on broad support among senators and judges who wish to weaken Lava Jato. Nunes' confirmation would almost certainly sway the court toward weakening ongoing investigations of Bolsonaro and his family. On all of these questions, a Nunes ruling would likely favor a Bolsonaro run for re-election in 2022."

A **Amanda Mattingly, senior director at The Arkin Group in New York:** "President Jair Bolsonaro's decision to appoint Kássio Nunes Marques to Brazil's Supreme Court surprised many, particularly the evangelicals who backed Bolsonaro's candidacy in 2018 and thought he would appoint an ultra-conservative to the court to replace retiring Celso de Mello. Nunes is considered a more moderate choice than Bolsonaro's conservative base would have liked. Nunes has been a federal judge for 10 years and, in contrast to Celso de Mello who has been a fixture on the high court since 1989, he is not well known. Despite the backlash from conservatives, Bolsonaro must be seeking a candidate who he thinks can be confirmed by Brazil's Senate. Bolsonaro will need more than his base to move a candidate through the Senate, and Nunes could fit the bill. No matter how unhappy conservatives are over Bolsonaro's appointment of Nunes, they are unlikely to abandon Bolsonaro over it. Centrists will have a hard time opposing Nunes as well, given that he is considered to

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be a jurist with a record of 'flexible rulings.' However, Nunes may still be a Bolsonaro loyalist. Bolsonaro likely wants an ally installed on the court, especially if the investigations into his family move forward. Recall that it was Celso de Mello who was overseeing the investigation into allegations that Bolsonaro had interfered in the work of the federal police force for his own political gain. Make no mistake, despite having run on an anti-corruption platform, Bolsonaro is not interested in supporting investigations into corruption and certainly not into allegations against him or his family."

A James Bosworth, founder of Hxagon, LLC and author of Bloggings by Boz: "The nomination of Kássio Nunes helped Bolsonaro in Congress with the Centrão coalition of legislators who often trade positions and pork for their support. Nunes is also supported by members of the Bolsonaro family who hope to get more Supreme Court justices as they face inquiries into alleged corruption. In those two ways, the nomination of Nunes was a smart political move to help Bolsonaro where he is weakest. In spite of a recent popularity bump thanks to social spending, Bolsonaro still has governability problems with Congress and members of his own cabinet. This nomination gives him some political capital to trade in the short term. Longer term, he will definitely get another Supreme Court appointment next year and has promised to name an evangelical to shore up his base. One note of caution: presidents in many democracies have been surprised by how Supreme Court justices have ruled once they take their seats. For example, José Dias Toffoli was nominated by Lula in 2009 and was expected to defend PT interests, but he certainly has not acted as a consistent PT supporter during his time on the bench. Nunes may appear to be a moderate or a pro-Bolsonaro choice today,

but there are no guarantees of how he will rule in the coming years."

A Carlos Eduardo Lins da Silva, global fellow at the Woodrow Wilson International Center for Scholars and professor at Insper College in São Paulo: "Kássio Nunes Marques' appointment to the Supreme Court by Jair Bolsonaro is the culmination of what has been called the president's 'normalization' process. After having taken the country to the brink of an institutional crisis with periodic inflammatory rhetorical outbursts against other branches of government, especially the judiciary and Congress, he calmed down and started to act as his predecessors, performing what he called 'old politics.' His attitude change coincided with police investigations on some of his closest former aides and of his elder son, Senator Flávio Bolsonaro, all suspected of graft actions allegedly committed before he was elected president in 2018. Judge Nunes is poised to win easy Senate confirmation as he has an excellent relationship with most senators. President Bolsonaro now has a political base in Congress, formed mostly by members of the 'big center' (Centrão) bloc, composed by parties that have traditionally supported any government in exchange for jobs for allies in the executive branch. These lawmakers, as well as many other politicians around the country, expect Nunes to be much softer than Celso de Mello in dealing with cases of corruption when they reach the Supreme Court. This would spell the end of 'Operation Car Wash,' which resulted in the imprisonment of several important politicians and businesspeople. Bolsonaro's 2018 campaign vowed to strengthen 'Car Wash.' Its leader, former Judge Sérgio Moro, was Bolsonaro's justice minister until he resigned last April, accusing the president of being lenient with corruption."

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