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FEATURED Q&A

Are Mexico and the U.S. Putting Politics Above the Law?



Gen. Salvador Cienfuegos Zepeda (L) walks alongside then-President Enrique Peña Nieto at a military parade in 2012. // File Photo: Mexican Government.

Q The U.S. Justice Department on Nov. 17 announced it had agreed to drop criminal charges against former Mexican Defense Minister Gen. Salvador Cienfuegos Zepeda, who was arrested in Los Angeles in mid-October on accusations of conspiracy to manufacture, import and distribute narcotics into the United States and money laundering. The government of Mexican President Andrés Manuel López Obrador reportedly saw Cienfuegos' detainment as a violation of the country's sovereignty, and Mexican officials have not committed to putting Cienfuegos on trial when he returns to his home country. What is behind the U.S. Justice Department's decision to drop the charges? What implications does the move have for Cienfuegos' case and for future foreign corruption investigations or trials carried out by the U.S. government? How well are U.S. and Mexican authorities working together on anti-drug efforts?

A Barry McCaffrey, retired U.S. army four-star general and former director of the White House Office of National Drug Control Policy: "The arrest of Gen. Cienfuegos at Los Angeles International Airport on Oct. 15 and his subsequent release without U.S. charges on Nov. 18 was a needlessly provocative, bone-headed Trump administration action. This uncoordinated arrest of the former Mexican defense minister two years after he retired (on a sealed 2019 indictment that he was the 'Padrino' of the H-2 Cartel) imperiled our shaky relations with President López Obrador and his government. The army was outraged. AMLO's government was surprised and humiliated. They immediately threatened expulsion of the incredibly effective small

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TODAY'S NEWS

POLITICAL

Mexican Officials Seek Prosecution of García Luna

Mexican officials are seeking the prosecution in Mexico of former Public Security Secretary Genaro García Luna, who currently stands charged in the United States.

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ECONOMIC

Chilean Senate Approves Piñera's Pension Measure

Chile's Senate approved a measure that President Sebastián Piñera proposed that would allow a second withdrawal from pension funds. The Senate rejected competing opposition-backed legislation.

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POLITICAL

Brazil's Bolsonaro Suffers Big Defeats in Local Elections

Candidates supported by Brazilian President Jair Bolsonaro were defeated in the country's local elections, which concluded Sunday. Bolsonaro-backed candidates lost in the country's major cities.

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Bolsonaro // File Photo: Brazilian Government.

POLITICAL NEWS

Brazil's Bolsonaro Suffers Big Defeats in Local Elections

Brazilian President Jair Bolsonaro suffered huge setbacks in Brazil's municipal elections that concluded Sunday, with only five of the mayoral candidates he backed winning their races, and none of them in the country's major cities, the Associated Press reported. Bolsonaro's worst loss was in Rio de Janeiro, where center-right former Mayor Eduardo Paes overwhelmingly won over Bolsonaro-allied Mayor Marcelo Crivella, an evangelical pastor, by 64 percent to 34 percent. In Fortaleza, Bolsonaro-backed candidate Wagner Gomes also lost, 51.5 percent to 48.5 percent to center-left candidate Sarto Nogueira. Bolsonaro's candidates also suffered big defeats in the local vote's first round two weeks ago. In Belo Horizonte, Brazil's third-largest city, Bolsonaro-backed mayoral candidate Bruno Engler lost to Alexandre Kalil, who won more than 63 percent of the vote, The Guardian reported. In São Paulo, Bolsonaro-endorsed candidate Celso Russomanno didn't even make it to the runoff. Center-right São Paulo Mayor Bruno Covas won re-election on Sunday. [Editor's note: See related [Q&A](#) in the Nov. 6 issue of the Advisor.]

Mexican Officials Want to Prosecute García Luna

Mexican officials want authorities in Mexico to prosecute the country's former public security secretary, Genaro García Luna, who stands charged with drug-trafficking crimes in the United States, the Associated Press reported. An unnamed Mexican official told the wire service that Mexico's attorney general's office had issued an arrest warrant on Friday for García Luna, adding that officials "are assessing the viability of starting an extradition process." García Luna was arrested last December in

Texas. He has pleaded not guilty to the charges against him. Earlier this month, U.S. authorities agreed to drop charges against another former Mexican official, ex-Defense Minister Gen. Salvador Cienfuegos Zepeda, and return him to Mexico.

ECONOMIC NEWS

Chile's Senate Approves Piñera-Backed Pension Bill

Chile's Senate on Thursday approved legislation backed by President Sebastián Piñera that would allow holders of pension accounts to tap some of their savings as an emergency measure amid the Covid-19 crisis, Bloomberg News reported. In a vote of 35-1, the Senate approved Piñera's legislation while rejecting a competing bill that opposition lawmakers introduced. Piñera's legislation is more limited than the opposition's, Reuters reported. Piñera vowed last week to present a challenge to the opposition's legislation in the constitutional court. In July, lawmakers approved a measure to allow pension holders to withdraw as much as 10 percent of their accounts, saying the move was needed to help Chileans through the economic fallout of the pandemic. Piñera reluctantly approved the measure, which led to \$17 billion in pension fund withdrawals. Piñera's legislation for the second withdrawal caps at about \$5,700 the amount that Chileans can take out, and some withdrawals will be subject to taxation, Bloomberg News reported. Chile's pension funds, known as AFPs, will have up to 30 business days to deliver the money to account holders after the withdrawal is requested. The measure is expected to lead to an additional \$15 billion in withdrawals. Chilean pension funds hold approximately \$200 billion in investments. Protesters have recently targeted the pension system, which dates from the dictatorship of Augusto Pinochet, because of its low payouts to retirees. The first round of withdrawals went to pay down debt and for the purchases of electronics and other consumer

NEWS BRIEFS

Argentine Authorities Search Home of Maradona's Doctor

Argentine authorities have searched the house and office of Diego Maradona's doctor as part of an investigation into the death of the soccer legend, who died of heart failure last week at the age of 60 in the town of Tigre, Argentina, CNN reported. Police have seized documents and cell phones from Dr. Leopoldo Luque, who has maintained his innocence and said he would cooperate with authorities in the wrongful death probe, according to local media. No charges have been filed against anyone in connection with Maradona's death.

Mexican Authorities Arrest Alleged Planner in Mormon Family Massacre

Mexican authorities have captured the man who allegedly plotted a massacre that killed nine members of a Mexican-American Mormon family last year, The Wall Street Journal reported Thursday. The suspect, Roberto González, is also known as "The 32" and is considered one of the leaders of Mexican gang La Línea, an armed wing of the Juárez drug cartel. González and two other members of his gang were detained last week in the northern state of Chihuahua, authorities said. Seventeen people have been arrested in connection with the case.

Itaú Board Approves Spinoff of Stake in XP

The board of Brazil's Itaú Unibanco Holding has approved the spinoff of the bank's stake in brokerage XP, Reuters reported Thursday, citing a securities filing. Itaú Unibanco had previously said it was considering a plan to spin off approximately 90 percent of its 46 percent stake in the brokerage. In its latest filing, Itaú said the spun-off entity would represent a stake of 41.05 percent in XP.

goods, as well as for down payments on new homes, Bloomberg News reported. The pension system is expected to be a major point of debate as Chile redrafts its constitution. Chileans voted overwhelmingly last month to rewrite the charter. [Editor's note: See the Advisor's [interview](#) on the constitutional rewrite with former Chilean President Ricardo Lagos.]

BUSINESS NEWS

Six Executives of Citgo Sentenced in Venezuela

Six U.S. oil executives were convicted and sentenced to prison in Venezuela last Thursday nearly two years after the Andean nation's military intelligence arrested them on embezzlement charges during what they thought was a business meeting in Caracas, NPR reported. Known as the Citgo 6, the men were all employees of Venezuelan state oil company PDVSA's U.S.-based refiner Citgo. Five of the men, Gustavo Cárdenas, Jorge Toledo, Jose Luis Zambrano, Alirio Zambrano and Tomeu Vadell, who are all U.S. citizens, were sentenced to eight years and 10 months, while Jose Pereira, a permanent resident of the United States, was sentenced to 13 years in prison, the Associated Press reported. The executives, who all maintain their innocence, were charged with embezzlement in connection with a proposal to refinance around \$4 billion of Citgo bonds by offering a 50 percent stake in the company as collateral, a move that was never actually implemented. In a statement to CNN, Citgo said it was "distressed to read about this outcome" and hopes "for a resolution that will lead to [the men's] prompt release." Family members say the men are being held in inhumane conditions. On Nov. 21, Secretary of State Mike Pompeo said the administration of U.S. President Donald Trump would "continue to pursue our mission to secure the release of the Citgo 6," calling on Venezuelan President Nicolás Maduro to "put politics aside and let these families be reunited."

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footprint of 50 Drug Enforcement Administration agents in Mexico. AMLO began his term with a call for 'hugs not bullets'—naïve. Violence spiraled out of control. The cartels in many states dominate local government and the police through gruesome torture, murder and corruption. López Obrador has rapidly learned that the Mexican army and marines (360,000 active personnel) were the only institutions that had the courage to follow orders and support his objectives. The army is extremely effective and has a very strong sense of discipline. The army is the most respected institution in Mexico, although it is clearly vulnerable to corruption. I have no reason to disbelieve that U.S. law enforcement had the goods on Cienfuegos. However, his arrest was bound to infuriate the army. Its cooperation is key to U.S. counterdrug efforts. Why not forewarn the government and neutralize Cienfuegos by a public indictment and presentation of evidence in private? The U.S. attorney general has no judgment. It was another action of a clueless administration."

A **Ana Lorena Delgadillo, founder and executive director of the Foundation for Justice and a Democratic Rule of Law (FJEDD)**

in Mexico: "The U.S. government prioritized its diplomatic relationship with Mexico over evidence it claimed to have in order to prosecute Gen. Cienfuegos. It seems that a political decision was made over a legal one, which puts at the center of the debate the need to strengthen the autonomy of prosecutors in every democracy. One wonders what interests benefited from the decision, both in Mexico and in the United States, and whether this implies a change in the cooperation between the two countries for future criminal investigations. Historically, we have seen that if the United States wants to investigate in any of our countries, it does so, without even consulting them. Given the Cienfuegos case, hopefully in the future Mexico will at least be involved in the

final stages of investigations, as the United States has realized that its interests might be put at risk if it doesn't involve Mexico. For Mexicans, it is unfortunate to think that justice in our country should depend on the United States. Yet, deep down, we fear that the Attorney General's Office will investigate the case because, despite important reforms

“For Mexicans, it is unfortunate to think that justice in our country should depend on the United States.”

— Ana Lorena Delgadillo

in 2014, this institution has not been transformed. It has proven to be neither efficient nor autonomous, and it is not reliable. The Cienfuegos case could be its great opportunity for justice—especially in the face of corruption and human rights violations—or the continuation of a history of impunity for the military in Mexico. With regard to transnational crime, both countries require effective and reliable judicial collaboration channels that are not bureaucratic and that prioritize the advancement of the rule of law. Mexico's attorney general's office must demonstrate that it is up to the task of investigating this case and, based on the results, consolidate a relationship of trust that is based on judicial cooperation."

A **Earl Anthony Wayne, co-chair of the Mexico Institute Advisory Board at the Wilson Center and former U.S. ambassador**

to Mexico: "The U.S. arrest and release to Mexico of retired Mexican Defense Secretary Salvador Cienfuegos on charges of supporting a drug-smuggling group has set up a high-profile test for Mexico's justice system. Many questions swirl around the general's arrest, release and future treatment in Mexico, especially the chances for

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a credible Mexican prosecution. Mexico's handling of General Cienfuegos' case will have a significant impact on U.S.-Mexican cooperation against deadly cross-border organized crime. Most important to watch for the long term will be how the management of the case strengthens or weakens bilateral collaboration against drug-trafficking groups that cause tens of thousands of deaths in the United States and Mexico. We must keep the real costs of trafficking in focus. Mexico's foreign minister and president have spoken positively about Mexico's ability to carry out a serious investigation of Cienfuegos. Other experts are skeptical, given the poor record of Mexico's justice system on cases involving high-profile individuals. In this case, electronic evidence collected by U.S. authorities without a Mexican judge's approval may not be admissible in Mexican courts. If the case falters, a bright spotlight will shine on still-existing flaws in Mexico's judicial system. A poorly handled case will further erode confidence among U.S. law enforcement officials in their Mexican partners and will erode confidence among honest Mexican officials in their system. To bolster trust, the two governments must build new mechanisms to help prevent corruption of officials from either country, as part of work to strengthen and expand effective cooperation against cross-border trafficking."

A **Maria Velez de Berliner, managing director of RTG-Red Team Group, Inc.:** "The higher the position, the more valuable the intelligence an accused person has to trade in his favor. Whether guilty as accused or not, Gen. Cienfuegos can name names on both sides of the border, based on his direct knowledge of anti-drug intelligence shared between and among agencies of the United States and Mexico. It is no secret that drug-financed corruption is widespread in Mexico and that many in influential and powerful positions are not as innocent as they

claim. Therefore, no wonder charges against Gen. Cienfuegos were dropped because of fear of his disclosure of sources and methods, including 'naming names' in both countries. Quid pro quo and back channels are the core of the negotiations that took place. The moving of Gen. Cienfuegos' case to Mexico's law enforcement has profound implications for combating drug-financed corruption and anti-drug efforts in which Mexico and the United States are involved. The U.S. Justice Department does not, most

“ **Whether guilty as accused or not, Gen. Cienfuegos can name names on both sides of the border...**”

— **Maria Velez de Berliner**

often, file charges without evidence that could sustain adversarial scrutiny in a court of law in the United States. Mexico is different: its law enforcement system is stacked against lower-placed criminals or the unlucky, while those at the top get off scot-free—they know too much. Gen. Cienfuegos' case demonstrates the constant, watchful approach U.S. intelligence agencies must exercise in intelligence sharing and collaboration with Mexico. The U.S. intelligence and law enforcement communities must accept that corruption, collusion and faithlessness are characteristic of a large segment of their Mexican counterparts, and amend collaboration and sharing agreements as changing or changed circumstances make mandatory."

Editor's note: The Advisor invited Mexico's embassy in Washington to comment on this topic but did not receive a response.

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

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