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FEATURED Q&A

Is López Obrador Interfering in Mexico's Judiciary?



Mexico's ruling party-controlled Congress extended for two years Arturo Zaldívar's term as the chief justice of the country's Supreme Court. // File Photo: Mexican Government.

Q Mexico's Congress, which President Andrés Manuel López Obrador's Morena party controls, on April 22 approved a package of judicial reforms that at the last minute included a two-year extension of Supreme Court chief Arturo Zaldívar's term. The change reportedly took Zaldívar, who is seen as friendly to López Obrador, by surprise. López Obrador's critics say the move was the president's latest to exert power over the judiciary, with which he has routinely clashed for blocking parts of his agenda. Are Mexico's judges "at the service of the mafias of economic and political power," as López Obrador alleges? Is the president wrongly seeking to interfere in the judiciary? How will the dispute between López Obrador and judges play out, who will win, and what is at stake for Mexico?

A Arturo Sarukhan, board member of the Inter-American Dialogue and former Mexican ambassador to the United States: "From the outset of the López Obrador administration, the gravest danger lurking over the horizon was always going to be the president's vision of an imperial presidency and the whittling away of the checks and balances and autonomous institutions that a generation of Mexicans painstakingly spent more than three decades building to deepen and widen democracy. The president is now doubling down on that threat, revealing a deepening split in Mexico over the very nature of its democracy. Regulators (telecoms or energy) and autonomous institutions (the Comptroller General's Office and the independent National Electoral Institute and National Institute for Access to Information) have all been targeted—tarred and feathered from the presidential bully

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TODAY'S NEWS

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At Least 24 Dead as Protests Continue in Colombia

Massive protests continued for a seventh day in Colombia, where at least 24 people have been killed and hundreds have been injured.

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European Food Companies Eye Boycott of Brazilian Products

Grocers have threatened to boycott Brazilian agricultural products over a controversial bill that the companies say will encourage deforestation.

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POLITICAL

White House to Back Int'l Patent Waivers for Covid Vaccines

The Biden administration will support waiving intellectual property protections for vaccines against Covid-19, U.S. Trade Representative Katherine Tai announced.

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Tai // File Photo: White House.

POLITICAL NEWS

At Least 24 Dead as Protests Continue Roiling Colombia

Massive protests continued on Wednesday for a seventh day in Colombia, where at least 24 people have died and hundreds more have been injured amid a government crackdown against demonstrators, CBS News reported. The country's ombudsman said Wednesday that 23 civilians and a police officer have been killed in the unrest, which started a week ago. The protests initially began after President Iván Duque's government submitted a controversial tax reform bill to Congress but have grown to reflect discontent over a litany of problems, including increasing unemployment and poverty amid the Covid-19 pandemic, as well as police brutality, sparked by authorities' heavy-handed response against demonstrators. The militarized response from law enforcement has prompted condemnation from international groups, including Amnesty International and the U.N. Office of the High Commissioner for Human Rights, which expressed "deep alarm" over reports of police shootings in the city of Cali, CBS News reported. The unrest in Colombia could potentially spill over to other countries in Latin America, which has been the region hit hardest by the pandemic both in terms of the health and economic crises, The New York Times reported. "This could spread across the region," political analyst León Valencia told the newspaper.

White House to Back Int'l Patent Waivers for Covid Vaccines

The administration of U.S. President Joe Biden will support waiving international property protections for vaccines against Covid-19 amid concerns over access to the vaccines in developing countries, The New York Times reported. U.S. Trade Representative Katherine

Tai announced the support on Wednesday amid spiraling infection rates in locations including South America and India. "This is a global health crisis, and the extraordinary circumstances of the Covid-19 pandemic call for extraordinary measures," Tai said in a statement. "The administration believes strongly in intellectual property protections, but in service of ending this pandemic, supports the waiver of those protections for Covid-19 vaccines." The United States had been holding off on supporting a proposal at the World Trade Organization to suspend some intellectual property protections. Such a suspension could allow drug manufacturers to access trade secrets on how vaccines are made. The Biden administration had faced increasing pressure to support the proposal, which India and South Africa drafted and many Democratic members of the U.S. Congress have supported, The New York Times reported. "With this waiver, we can share vaccine recipes, largely developed with taxpayer dollars, while assuring reasonable royalties to American manufacturers," said Rep. Lloyd Doggett (D-Tex.), the chairman of the House Ways and Means Committee, The Hill reported. The European Union and countries including Brazil, the United Kingdom, Switzerland, Japan, Canada and Australia have opposed the waiver proposal. The pharmaceutical industry has also staunchly opposed the waivers, saying the move would hurt innovation and harm their ability to produce the hundreds of millions of vaccine doses that are needed. "In the midst of a deadly pandemic, the Biden administration has taken an unprecedented step that will undermine our global response to the pandemic and compromise safety," said Stephen Ubl, the president and chief executive officer of industry trade group Pharmaceutical Research and Manufacturers of America, or PhRMA. "This decision will sow confusion between public and private partners, further weaken already strained supply chains and foster the proliferation of counterfeit vaccines." Ubl called the waivers an "empty promise" and said pharmaceutical companies are increasing manufacturing capacity while the United States is increasing vaccine exports. He also pointed to new commitments to the global Covax initiative and "unprecedented" aid for India. "This decision does nothing to address the

NEWS BRIEFS

López Obrador Vows Investigation of Deadly Metro Collapse

Mexican President Andrés Manuel López Obrador on Wednesday vowed a full and transparent investigation of Monday's collapse of a Mexico City Metro overpass, which killed at least 24 people and injured dozens of others, Reuters reported. "There's no impunity," said the president. López Obrador was Mexico City's mayor from 2000-2005, and his foreign minister, Marcelo Ebrard, was the city's mayor at the time the Metro line involved was opened in 2012. Since then, there here have been concerns about the structural integrity of the line, as well as design issues and graft allegations.

Brazil's Central Bank Raises Key Interest Rate

Brazil's central bank on Wednesday raised its benchmark interest rate by 75 basis points, bringing the Selic rate to 3.5 percent, in line with estimates from all economists in a Bloomberg survey, Bloomberg News reported. The central bank promised another hike of the same amount next month as it seeks to push inflation, which was at a four-year high at 6.17 percent in the year through mid-April, back within its target. [Editor's note: See related [Q&A](#) in the April 5 issue of the Advisor.]

Bitso Raises \$250 Million in Funding Round

Bitso, the largest cryptocurrency platform in Latin America, on Wednesday announced it had raised \$250 million in a Series C equity round led by Tiger Global and Coatue. Paradigm, BOND and Valor Capital Group also participated in the round, in addition to existing investors QED, Pantera Capital and Kaszek. With the round, Mexico-based Bitso reached unicorn status—with a valuation of more \$2.2 billion—and also became one of the most valuable fintechs in the region, according to the statement.

real challenges to getting more shots in arms, including last-mile distribution and limited availability of raw materials,” said Ubl. Support from the United States for the international waivers, which aim to suspend the intellectual property protections until the pandemic ends, does not guarantee that the proposal will be adopted at the World Trade Organization, The New York Times reported.

BUSINESS NEWS

Food Companies Threaten Boycott of Brazilian Products

Some of Europe’s largest grocers and food companies have threatened to stop buying agricultural products from Brazil if Latin America’s biggest economy does not block a controversial bill that the companies say encourages deforestation in the Amazon, CNN reported. In an open letter published Wednesday, 40 supermarkets, food suppliers and investment firms urged Brazilian legislators to reconsider a bill that would allow the private occupation of public land that has taken place since 2012. The legislation presents “potentially even greater threats to the Amazon than before,” they wrote in the letter, despite Brazil registering record levels of deforestation in recent years under the administration of President Jair Bolsonaro, Agence France-Presse reported. Among the companies are Germany’s Metro and discount chains Aldi and Lidl, as well as British retailers Tesco and Sainsbury’s, and Dutch firm Ahold Delhaize, which operates 21 brands in Europe and the United States, CNN reported. Brazil is the largest exporter of agricultural products to the European Union, according to the European Commission. Retail Soy Group, an organization created in 2013 to address a sector-wide gap in addressing demand for sustainability, according to its website, coordinated the letter. The group had already written to Brazilian politicians last year over similar legislation that was later withdrawn, amended and resubmitted, AFP reported.

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pulpit—as mechanisms built to favor elites and the status quo ante, notwithstanding the paradox that many of these institutions paved the way for López Obrador’s electoral victory in 2018. Now with the possibility that his party might lose seats in the June midterm elections, the president increasingly seems to have set his sights on curtailing the independence of the judicial branch. During his more than two years in office, the president has sought to weaken Mexico’s institutions so that they cannot constrain him. But that also means he cannot rely on them to generate growth, mitigate the pandemic, resolve social conflicts, tackle public insecurity, take advantage of Mexico’s geostrategic assets or even facilitate his eventual exit from office. And the United States needs to start paying attention. The Biden administration, likely hamstrung by the imperious need to secure Mexican support regarding Central American transmigration, has fallen into an ‘Erdogan Trap’: seeking concessions and support in stemming migrant flows, it is turning—one would certainly hope, temporarily—a blind eye to the growing erosion of Mexico’s democracy and it’s critically important—but still fragile—checks and balances.”

A **Laura Carlsen, director of the Americas Program in Mexico City:** “The uproar over the extension of Arturo Zaldívar’s term as chief justice of the Supreme Court is the kind of press-induced tempest in a teapot that has become common in a politically polarized Mexico. Zaldívar’s 15-year term on the court was not extended; what was extended by two years was his four-year term as chief, which, unlike the perpetuity of power in the United States, is a rotating position. This measure was unseemly and politically unnecessary, and Zaldívar himself has distanced himself from it. However, the judiciary and the legislature designed and accepted the judicial reforms, which have been nearly universally accepted as

an advance in eliminating the system’s endemic corruption, which included bribery, kickbacks, inefficiency and a general lack of judicial oversight. The controversial addition of the term extension could very well be challenged in court. Either way, it will not derail the reforms or significantly affect other rulings. Executive interference in the judicial branch can indeed be a warning sign of creeping—or galloping—authoritarianism, but this is not the case here. Reformers seriously concerned about democratic checks and balances should instead be taking a close look at what’s happening in El Salvador, where President Nayib Bukele summarily fired five Supreme Court judges and the attorney general, or Honduras, where President Juan Orlando Hernández has consistently manipulated the composition and decision-making of the judiciary. Unless we begin to see something like that happening in Mexico, undue speculation about looming authoritarianism is merely another expression of a bruised power elite striking out in a rapidly evolving national scenario.”

A **Vanda Felbab-Brown, senior fellow for foreign policy at the Brookings Institution:** “President López Obrador’s extension of the term of Supreme Court chief Arturo Zaldívar is part of his strong effort to recentralize power in the Mexican presidency and hollow out the independence and power of other Mexican institutions. His other moves to bend the justice system to his will include a reform that lowered the salary of judges but did not improve the quality of prosecutors and his unwillingness to allow an independent selection of the attorney general, with López Obrador himself retaining the power of appointment. His latest move with the two-year extension of Zaldívar’s term is especially worrisome. Zaldívar is also the president of the powerful Federal Judiciary Council. The council appoints and dismisses judges, sets career advancement rules and disciplines judges. Zaldívar will be setting

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the council's and, thus, the whole judiciary's, agenda and priorities for two years. This allows López Obrador to influence how courts will rule in cases regarding the executive branch, what cases they take up and the legality of new policies. These moves are taking place when the effectiveness of the judiciary in Mexico remains limited and deeply concerning. The attorney general's office has proven weak, unwilling to take up key cases such as against the suspects in the brazen attack on Mexico City's security minister, Omar García Harfuch—an event that symbolized the impunity with which Mexican criminal groups operate. Mexico's justice system showed itself equally meek and disappointing in inadequately investigating the alleged complicity of former Mexican Defense Minister Salvador Cienfuegos and dismissing the case, potentially the most significant case of corruption and criminal collusion charges against a high-ranking Mexican official in two decades. A decade and a half after Mexico initiated its justice system reforms, 95 percent of federal cases still go unpunished. President López Obrador has scored some points, but the already precariously weak rule of law in Mexico, and thus the Mexican people, will suffer."

A Luis Rubio Barnetche, partner at Holland & Knight: "AMLO has been slowly, but consistently, working to erode institutional independence in nearly all areas of the government. This latest move comes at a time when his attempts to modify the Mexican legal landscape are being heavily opposed before the judiciary. For example, recent amendments to the electricity and hydrocarbons laws are under scrutiny by federal judges. Evidently, this has greatly irked AMLO, who responded in his usual modus operandi:

by publicly criticizing anyone who does not do as they are told—this time, judges. AMLO has consistently said that whoever is not on his side is against him and often blames 'mafias' of power or acts of 'corruption'

“AMLO has been slowly, but consistently, working to erode institutional independence in nearly all areas of the government.”

— Luis Rubio Barnetche

when he is challenged. Thus, unconstitutionally extending Zaldívar's term serves two purposes. First, it helps Morena retain its influence over the Supreme Court as Zaldívar is largely seen as an avid AMLO supporter. This ensures that constitutional disputes that reach the Supreme Court would likely be decided favorably for AMLO over the next few years. Second, Mexico recently reformed its federal judicial system, which will require the creation of new institutions and the modification of others. Zaldívar acts not only as president of the Supreme Court, but also as president of the Federal Judiciary Council, the group that oversees the administration and careers of federal judges and the implementation of the reform. By extending his term, AMLO is ensuring that the next steps of the reform benefit his party."

[Editor's note: The Mexican Embassy in Washington declined an invitation from the Advisor to submit a commentary for this issue.]

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

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