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## FEATURED Q&A

# Is Panama Getting Better at Fighting Public Corruption?



Laurentino "Nito" Cortizo, who vowed during his campaign to clean up politics, won Panama's 2019 presidential election by just over two percentage points. // File Photo: Panamanian Government.

**Q A court in Panama ordered former presidents Juan Carlos Varela and Ricardo Martinelli to stand trial on money laundering charges related to a sprawling graft case involving Brazilian construction giant Odebrecht, Reuters reported Nov. 8, citing a court document. Varela and Martinelli, who deny wrongdoing, are to go on trial in August of next year, alongside 34 other people, including five former government ministers. What political impact will the case have on Panama? How well is current President Laurentino Cortizo's government fighting corruption?**

**A Joaquín Jácome-Diez, former Panamanian minister of trade and industry, and a senior partner at Jácome & Jácome:** "Odebrecht's trial has enormous implications for Panama for two main reasons. First, it will test a judicial branch that has been highly criticized for being corrupt and inefficient. Second, because former President Martinelli currently holds a lead in most polls for the May 2024 presidential elections. Martinelli's main obstacle to recreate Lula da Silva's path in Panama are the ongoing trails of Odebrecht and the "New Business" money laundering scheme, in which he is involved. Article 180 of the Panamanian Constitution establishes that no citizen may be elected President or Vice President of the Republic if they have been convicted of an intentional criminal offense carrying a prison sentence of 5 years or more by an enforceable judgment issued by a court of law. A guilty verdict in any of these criminal proceedings could result in Martinelli's inability to run for office. However, the Constitution requires that the judgment be enforceable, which may prove to be legally impossible

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## TODAY'S NEWS

### POLITICAL

## Brazil's Lula Gets Warm Welcome at Climate Summit

Leftist Brazilian President-elect Luiz Inácio Lula da Silva on Wednesday told cheering crowds at the U.N. climate conference in Egypt that he would crack down on illegal deforestation in the Amazon.

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### ECONOMIC

## Colombia Grows Faster Than Expected in Q3

Colombia's economy grew 7 percent in the third quarter as compared to the same period last year. Market analysts were more pessimistic, forecasting 6.7 percent growth.

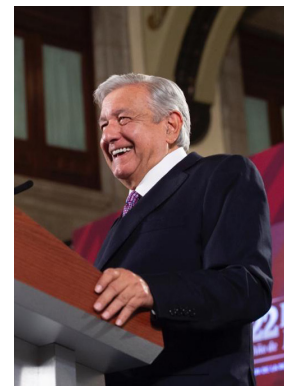
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### BUSINESS

## Mexico Invites U.S., Canadians to Produce Lithium

Mexican President Andrés Manuel López Obrador has issued a call for U.S. and Canadian companies to participate as minority stakeholders in developing Mexico's lithium industry.

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López Obrador // File Photo: Mexican Government.

## POLITICAL NEWS

## Brazil's Lula Gets Warm Welcome at Climate Summit

Leftist Brazilian President-elect Luiz Inácio Lula da Silva on Wednesday told cheering crowds at the U.N. climate conference in Egypt that he would crack down on illegal deforestation in the Amazon and revive relationships with countries that finance forest protection efforts, the Associated Press reported. "There will be no climate security if the Amazon isn't protected," Lula said. He also offered to host the U.N.'s 2025 world climate summit in the rain forest. Some media reports said Lula was greeted like a "rock star" at the conference. Lula's stance contrasts with outgoing conservative President Jair Bolsonaro, who weakened protections in the Amazon as he pushed a pro-development agenda for the region. "Lula's presidency will represent a dramatic shift in climate and Amazon policy," Eduardo Viola, a professor of international relations at Getúlio Vargas Foundation, told the Advisor in a [Q&A](#) published yesterday. However, Lula's success in achieving his goals in the Amazon in large part will depend upon capturing additional resources from international donors, added José Goldemberg, a former Brazilian environment minister.

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due to the timing of both trials. The flurry of appeals that would probably follow a guilty verdict could prevent the judgment from being enforceable, thus allowing Martinelli to run for President. One of the current administration's weakest aspects is transparency. President Cortizo, who had vast experience in the public sector prior to being elected president, has been a great disappointment in the fight against corruption. There has been a series of cases in different branches of government during and after the pandemic that have drawn questions from the public but remain without any explanation or

## ECONOMIC NEWS

## Colombian Economy Grows Faster Than Markets Expected

Colombia's economy grew 7 percent in the third quarter as compared to the same period last year, state statistics agency DANE said Wednesday. Although the government had expected growth of 7.9 percent, market analysts were more pessimistic, forecasting 6.7 percent growth, Reuters reported. "Looking at the breakdown of the demand side print leaves us a bit puzzled," JP Morgan analyst Ben Ramsey told clients in a research note, citing that Colombia's growth rate is among the highest in the region and "seems to be overheated," with inflation running high and monetary policy tightening. "Despite some apparent incongruences, we think the signal of an inflection point for consumption in the third quarter, and the market stress and ongoing tightening of monetary policy into the fourth quarter, will send GDP into a needed correction mode ahead," Ramsey added. Leftist Colombian President Gustavo Petro, who took office earlier this year, pushed through a major tax reform package in congress this month. The bill will increase tax revenues by up to 1.4 percent of GDP in 2023 and 2024, and then by about 1.2 percent in

investigation. According to the Transparency International Index, Panama is graded below average in the region."



**Michelle Watts, assistant department chair in the School of Security and Global Studies at the American Public University**

**System:** "On the surface, Panama appears to be moving forward in addressing international concerns about corruption and money laundering. The prosecution of former presidents is unprecedented in Panama, where powerful families and politicians rare-

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## NEWS BRIEFS

## Chile's Codelco Invests in Electric Machinery to Curb Carbon Emissions

Chile's state-owned Codelco, the world's largest copper producer, began operating a fully-electric, 14-ton loading shovel, the company said on Wednesday in statement, Reuters reported. It is South America's first 100 percent electric machinery of its kind, and aims to help Chile reduce its emissions.

## Venezuela Requests ICG Throw Out Guyana's Case Over Border Dispute

Venezuelan officials told judges at the International Court of Justice on Thursday that they should throw out a case filed by Guyana in a long-running border dispute, which could determine which country has rights to offshore oil and gas fields, Reuters reported. Guyana brought a case in 2018 asking the court to confirm the border was established by a 1899 arbitration process between Venezuela and the then-colony of British Guiana. Last year, Venezuelan authorities held 12 Guyanese fishermen for nearly two weeks as the border dispute escalated. [Editor's note: See related [Q&A](#) in the Feb. 18, 2021 issue of the Advisor.]

## Solar PV to Overtake Wind as Latin America's Top Renewable Source: Report

Solar PV will become the most cost-competitive renewable energy technology in Latin America starting next year, according to a research report released by Wood Mackenzie Wednesday. The authors also found that in Brazil, by 2025 solar power will displace onshore wind, currently the most attractive renewable energy source in South America's largest economy. "Expected solar cost reductions are significant, with average capital investment falling by 55 percent from 2022 to 2050," said research manager Leila Garcia da Fonseca.

2025 and 2026, with measures including higher oil and coal duties when prices reach certain levels, raising taxes on high-earners, reducing corporate tax exemptions, taxing single-use plastics, sugary drinks, and highly processed food, Fitch Ratings told clients in a research note Wednesday. “We forecast deficits to narrow and debt/GDP to stabilize in 2023-2024, but risks to our forecasts remain significant,” Fitch economist Richard Francis said. [Editor’s note: See related [Q&A](#) in Tuesday’s issue of the Advisor.]

## BUSINESS NEWS

### Mexico Invites U.S., Canadian Firms to Produce Lithium

Mexican President Andrés Manuel López Obrador on Tuesday issued a call for U.S. and Canadian companies to participate as minority stakeholders in developing his country’s lithium industry, Reuters reported. “In all cases, there has to be an association of the public company with private companies, and we don’t want the lithium to be taken out of Sonora,” he said, referring to the state where he plans to locate an electric vehicle manufacturing hub. In August, López Obrador issued a decree setting up a new state-owned company called LitoMx (Lito para Mexico), which will be responsible for managing the exploration, mining exploitation and refining of lithium throughout the national territory of Mexico. Mexico does not yet have commercial-scale lithium production, though close to a dozen foreign companies hold contracts to explore potential deposits, including Chinese-held entities, according to Reuters. Those existing contracts will be respected, López Obrador has said, although only North American companies will be allowed to partner with the new state firm. Mexico holds the ninth-largest identified lithium resources in the world, at 1.7 million tons, according to a White & Case report on the sector. [Editor’s note: See related [Q&A](#) in the April 29 issue of the weekly Energy Advisor.]

## RESEARCH ALERT

### Dictatorial Radicalization in Nicaragua: From Repression to Extremism?

by Manuel Orozco, Inter-American Dialogue

The democratic backsliding of Nicaragua represents one of the greatest challenges for the Latin American and Caribbean region. The authoritarian drift that has progressively materialized in Nicaragua has gone from repression to extremism. The result is a society that lives in fear, besieged, and without hope for a better future in the short term. The prevailing and overwhelming impunity has caused outright violations of human rights and stripped away citizens’ sense of decency. The regime of Daniel Ortega and Rosario Murillo continues to violate civil liberties and constitutional rights through a radical and extreme escalation, whose trajectory dates back several years.

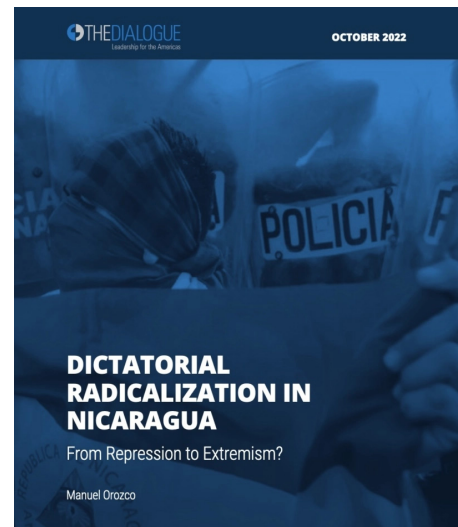
This is a particularly serious issue—one that must be addressed urgently. The problem is not limited to Nicaragua—it represents a threat of new authoritarian drifts in the region and a latent domino effect. Freedom of expression, citizen activism through non-governmental organizations (NGOs), respect for the rule of law, and the promotion of democratic institutions have been eroded and are now non-existent, preventing the development of Nicaragua and leaving the country in its darkest moment. The new normal is electoral fraud, the gradual elimination of opponents and a lack of democratic and institutional checks and balances.

This report, [Dictatorial Radicalization in Nicaragua: From Repression to Extremism?](#), is based on three studies carried out on the impact of international sanctions, the closure of NGOs, as well as an evaluation of international loans.

The international community must act now. This report offers an analysis of how pressure from the international community, international sanctions and external financing represent alternatives to improve the dire situation in Nicaragua.

The analysis shows the limitations of the sanctions, and the continuity of indebtedness the country has acquired in the midst of repression—requesting loans that are inconsistent with the needs of economic development paired with a widespread lack of accountability.

Finally, the report presents five recommendations for the international community to increase a proportional response to the impunity that prevails in Nicaragua.



## FEATURED Q&amp;A / Continued from page 2

ly face the consequences of their actions, and the prosecution of Martinelli and Varela will likely at the very least give politicians pause. The long-term impact is likely to be small yet significant, perhaps forcing those in power to stick to smaller-scale corruption. However, it is important to be realistic about the extent that real change in Panama's culture of impunity for the well-connected will take place. A law passed in 2020 to create a Beneficial Owner Registry to reveal the true ownership of companies appears to be toothless. The Registry may have been an unsuccessful effort to deflect criticism and stay off the Financial Action Task Force's (FATF) 'grey list' of countries involved in money laundering. A string of corruption allegations during President Cortizo's administration, as well as policies that arguably violated civil rights during the pandemic, does not speak well of his efforts. Adding to President Cortizo's difficulties, the National Assembly has not supported his efforts at reform. It remains to be seen if Cortizo's actions, including the recent creation of a citizen commission on corruption, will have enduring effects. Despite the many allegations against Martinelli, he is still eligible to run for president again in 2024. If he is successful in his bid, the future of such anti-corruption efforts is nebulous at best."

**A** **Jaime A. Jácome de la Guardia, local partner at Diaz Reus in Panama:** "After evaluating an investigation carried out over more than seven years, the Panamanian Judicial Court has ordered the trial of former presidents Ricardo Martinelli and Juan Carlos Varela, in addition to eight high-ranking officials from both administrations and twenty-six other individuals, among them Panamanians and foreigners. The accusation against the defendants is money laundering, given that the crimes of corruption of public officials and illicit enrichment were declared time-barred due to compliance with the deadlines established by law for it. The

trial has been scheduled for August 2023, although it is expected that the defendants will try various procedural means to delay these dates. Two relevant circumstances must be considered. The first is that the process is in the first procedural instance, which allows for two more, an appeal and a cassation before the Supreme Court of Justice, which in view of the judicial practice of the country, means that it will take several years before a final judgment. The second element is the argument that the crime of money laundering, in Panamanian legislation and jurisprudence, is not an autonomous crime but must be preceded by a previous crime that produced the resources that are laundered. In this case, having prescribed

**“The truth is that Panamanian justice faces an enormous credibility challenge...”**

— Jaime A. Jácome de la Guardia

the crimes of corruption of public officials and illicit enrichment, the defense will argue that since there is no prior offense, it cannot proceed. However, many lawyers consider that this allegation does not seem valid, since within this same process other defendants confessed to committing the crime and reached sentencing agreements. Similarly, two of the defendants, the sons of former President Martinelli, Ricardo and Luis Enrique Martinelli Linares, were convicted in a New York court of conspiring to receive bribes from the Brazilian construction company Odebrecht. The truth is that Panamanian justice faces an enormous credibility challenge, when in previous cases involving former President Martinelli and other officials and individuals, favorable decisions have been issued for the accused that have been strongly questioned by society and the legal community, in Panama and abroad."

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