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## Resignation of Attorney General Allows Smoother Transition to Mexico's New Justice System

by Carlos Navarro

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Mexico's attorney general, Raúl Cervantes, announced his resignation in mid-October, paving the way for a more transparent transition to an independent justice system.

Cervantes' decision represented a second step in the move to create a trustworthy prosecutor's office that would not be beholden to the office of the Mexican president or to the political parties. In November 2016, President Enrique Peña Nieto defused a potential controversy when he agreed to promote changes to a constitutional mandate that would have allowed him to appoint the head of a new independent prosecuting entity, the Fiscalía General de la República (FGR), being created to replace the Procuraduría General de la República (PGR) ([SourceMex, Nov. 30, 2016](#)).

Even with Peña Nieto out of the decision-making process, many members of the governing party, the Partido Revolucionario Institucional (PRI), and some legislators from the conservative opposition Partido Acción Nacional (PAN) had pushed for Cervantes to be named as the first head of the FGR, raising questions as to whether the new office would truly be an independent entity ([SourceMex, Sept. 6, 2017](#)).

The proposal to create a more independent prosecutor's office was part of the far-reaching political and electoral reforms that the Congress approved in 2011 and 2013, which also allowed citizen consultations and independent candidacies ([SourceMex, May 4, 2011, Dec. 11, 2013, March 19, 2014](#)).

In announcing his decision to step down from the post, Cervantes said he was doing so to avoid becoming a distraction as Congress discusses the legislative initiatives to create the new prosecutor's office.

"I hope that both the Chamber of Deputies and the Senate will have the vision and quickly approve the laws needed to ensure a federal prosecutor's office and state prosecutors' offices that are efficient, autonomous, and independent," he said.

Some observers said Cervantes' decision to step down was the correct move. "The idea that Cervantes would become the prosecutor under the new model was unsustainable," columnist Leo Zuckermann wrote in the daily newspaper *Excelsior*. "Perhaps the PRI would have obtained the needed votes in the Senate [a simple majority]. However, because of his close connections with President Peña Nieto and his well-known membership in the PRI, Cervantes would be coming to such an important office with a deficit of credibility and legitimacy. This was not convenient for him or for the institution."

### *A call for deep changes in justice system*

Cervantes said Mexico needs deep changes at all levels of justice, which the Congress should address with its new legislation. "In order to prevent, stop, and sanction crime in Mexico, we require a level of professional service in the prosecutor's office, the courts, and the criminal investigative entities," he said during testimony before the Senate.

Several columnists reiterated the points that Cervantes made in his Senate testimony. Daniel Cabeza de Vaca Hernández, who served as attorney general under former President Felipe Calderón (2006-2012), pointed out that the general plan for the reforms was based on a scheme used in the US. "This model will not be successful unless we create complementary measures," Cabeza de Vaca wrote in a guest column in the daily newspaper *El Universal*. "This means the creation of a professional, a competent prosecuting entity with the same powers given to the US Attorney General's Office."

Similarly, columnist Ana Paula Ordorica noted the move from the PGR to an FGR would simply be a cosmetic transition without major changes. "Beyond a new building, a new name for the prosecutor's office, and surely new attractive stationery, the procuration of justice will suffer from the same vices, tricks, and acts of corruption that have led to high rates of crime and impunity," Ordorica wrote in *El Universal*. "The name of the person who will occupy the new office is the least of our worries if a new institution of justice is not created from the ground up."

Analysts noted that the current, obsolete system was put in place during the dictatorship of Porfirio Díaz in the late 19th century and early 20th century. "Our country cannot remain much longer under the model of procuration of justice that has been in place since the days of authoritarian rule," columnist Pedro Salazar wrote in the daily business newspaper *El Financiero*. "Our crisis of public safety is growing, while the institution that is supposed to address the issue languishes."

### *A question of timing*

With Cervantes out of the picture, the debate has turned to the timetable to name a new prosecutor. Peña Nieto, several PRI senators, and Andrés Manuel López Obrador, leader of the center-left party Movimiento Regeneración Nacional (Morena), have proposed that a decision on the selection of a prosecutor be postponed until after the presidential and federal congressional elections on July 1, 2018.

"I hope that legislators listen to this proposal and wait until a new president is installed before they request a list of honorable and clean people, prestigious lawyers, for this post," López Obrador said. "This because the principal problem in Mexico now is corruption and impunity."

Peña Nieto, for his part, suggested that the process could become hostage to political considerations, and therefore, it was best to wait until after the election to draft a list of names.

"Perhaps we should wait until after the July election," Peña Nieto told participants at a forum sponsored by Grupo Financiero Interacciones in Mexico City. "By that time, the political commotion would have calmed down, and then we can make decisions that are not linked to the electoral climate."

Peña Nieto also took the opportunity to deny that he had been pushing for Cervantes to take the new prosecutor's job. "This was false speculation that the current prosecutor would automatically be named to the new post," the president said.

Despite the suggestions from the PRI and Morena, most members of the PAN and the center-left Partido de la Revolución Democrática (PRD) in the Senate would like to move on the naming of the new prosecutor as quickly as possible. "The climate under which various reforms are considered is certainly important," said Sen. Fernando Herrera Ávila, the PAN's floor leader in the upper house.

“However, the president was elected to govern and not to delay consideration of issues that are important to the country.”

Even if the PAN and the PRD are successful in bringing the matter to the Senate floor, factors such as the legislative calendar could delay the final approval of reforms on the justice system, including the naming of the new prosecutor.

“Even if the legislative process were to begin today, the constitutional reform could take as long as two or three months, because both legislative chambers of Congress would have to be involved. The matter would then have to go to the state legislatures,” columnist Luis Carlos Ugalde wrote in *El Financiero*.

According to Ugalde, this means that the request for names might not come until the session of Congress that begins in February 2018, right in the middle of the presidential campaigns. “Would the Congress have the capacity and calm demeanor to make a consensus nomination in the middle of an electoral war?” he asked.

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