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Organization Of American States: Saving Nicaragua From Itself Since 1979

by LADB Staff

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Organization of American States (OAS) Secretary-General Jose Miguel Insulza visited Nicaragua June 16 to look into the institutional crisis that has plagued the presidency of Enrique Bolanos for much of his tenure. Bolanos said Insulza responded readily to his appeal for help in promoting a useful dialogue between his administration and the legislature. The OAS chief faces a separation-of-powers battle between the government and the legislature wherein the Asamblea Nacional (AN) has nibbled away at executive branch prerogatives through a series of maneuvers including constitutional reforms (see NotiCen, 2005-01-20).

A coalition composed of a faction of Bolanos' Partido Liberal Constitucionalista (PLC) and the opposition Frente Sandinista para la Liberacion Nacional (FSLN) have complete control of the legislature at this point. The latest AN assault on executive powers came when deputies newly empowered by their April reforms created a Superintendencia de Servicios Publicos (SISEP) whose members they have the power to select. This arrangement gave the AN effective control of regulation of the Institutos de Telecomunicaciones, Energia, Agua, and Acueductos y Alcantarillados. It is highly unusual that a legislature is a country's policy-setting branch in these areas.

Bolanos responded by having police surround the buildings where the new appointees would work, preventing their entry. He also issued a resolution instructing police and the military to disregard the legislature's constitutional reforms (see NotiCen, 2005-06-02).

Ministerial sacrifice to keep the military out of the fray

On June 10, Minister of Defense Jose Adan Guerra presented the president his irrevocable resignation amid administration denials of linkage between the events. Guerra has served four years in the post. The significance of his resignation is that pressure has been mounting to involve the military in the constitutional conflict between the powers. Sources linked to the presidency had reportedly been leaning on Guerra to hold a press conference wherein he would say that permitting the telecommunications sector to be controlled by the FSLN would constitute a danger to national security.

It was also reported that, on June 6, Guerra was obliged to read a statement prepared by the administration saying that the military was ready to reinforce the Policia Nacional (PN) at Bolanos' order. But when he appeared before the media, Guerra instead said the military "has no pipe to play for the moment in this conflict." The crisis has taken on the characteristics of a game in which anyone can play and no one can win.

On June 13, La Prensa, the leading daily, reported that it had investigated the credentials of the AN nominee for Intendente de las Telecomunicaciones, Freddy Pablo Carrion Cruz, and found that the diploma he presented as a telecommunications engineer is of doubtful authenticity. The paper reported it contacted the Instituto Superior Politecnico Jose Antonio Echeverria (CUJAE) in Cuba and was told by the secretary-general there that no such person appeared in the institution's databases. The official could not, however, categorically deny the authenticity of the diploma Carrion Cruz had submitted with his resume, without seeing the original, although a faxed copy did appear to him to be irregular.

It is now expected that Insulza will arrive as the head of a mission that will somehow aid in restoring a "pulverized" state of law in the country. That was former Corte Suprema de Justicia (CSJ) justice Alejandro Serrano Caldera's word for the situation. He said, "I believe the presence of Insulza is going to be very important in the search for a way to restore the juridical security that has been pulverized." Serrano said the law has ceased to be the instrument of cohesion and harmony in the country and has become a political weapon between two bands that are at this point intractable.

The OAS record in Nicaragua

Insulza comes with a long record of his organization's performance in Nicaragua. Before Insulza took office, an OAS mission in October 2004 helped prevent the toppling of Bolanos when the Contraloria petitioned the legislature to unseat him over an electoral scandal. But OAS interventions in the country began in 1978, in the declining days of the regime of US-imposed dictator Anastasio Somoza Debayle (1967-1972, 1974-1979).

A mission from the OAS Comision de Derechos Humanos arrived to investigate the aftermath of Somoza's aerial bombings of his own citizens. After Somoza failed to comply with commission recommendations, in 1979 the OAS called for his immediate replacement. Somoza railed against the intervention, and there followed the Sandinista Revolution. The next time the OAS intervened, it was with the UN and the Carter Center in 1990, resulting in the Protocolo de Transicion that brought an end to the FSLN government and a peaceful handover to the newly elected Violeta Barrios de Chamorro. Now the FSLN is working against the mission.

The party leadership has said it doesn't want an OAS mission; it prefers instead mediation by Cardinal Miguel Obando y Bravo, once the party's nemesis. The party's statement to that effect read in part, "Nicaraguans resolve our own problems."

FSLN leader Daniel Ortega said he has spoken to Insulza about the visit. He said he told Insulza, "This is no Bolivia, despite Bolanos' characterization of the legislature's constitutional reforms as a 'virtual coup.' I also told him that we are reluctant here to have any kind of interference, and he told me, 'No, I'm in total agreement. This is not about interference, but a government request.'" That it is a government request is key to the legitimacy of the mission, a key made in Nicaragua in 1993 when the Declaracion de Managua para la Promocion de la Democracia y el Desarrollo was passed.

The language authorizing this type of intervention in that document was eventually incorporated into the OAS Democratic Charter, passed in Lima, Peru, on Sept. 11, 2001. Article 17 of the charter

states, "When the government of a member state considers that its institutional democratic political process, or its legitimate exercise of power, is at risk, it can recur to the Secretary-General, or to the Permanent Commission, to solicit assistance for the strengthening and preservation of democratic institutionality."

Article 18 then authorizes the OAS to send a mission. Whether or not the OAS mission succeeds in ameliorating the impasse between the powers, many within civil society trace the fundamental problem to the pact between the FSLN and the PLC faction loyal to former President Arnaldo Aleman (1997-2001) that has given the strange bedfellows a stranglehold on the legislature.

Change in form of government requires referendum

The Red por Nicaragua has taken the position that, because the reforms passed by the legislature amount to a modification of the type of government from a presidential to a parliamentary form, a matter of this gravity must be taken to the people as a referendum. Former president of the Consejo Supremo Electoral (CSN) Rosa Marina Zelaya said an [Asamblea] Constituyente must be held prior to the November 2006 elections "because this date is already too late for Nicaragua."

An alternative, she said, would be to initiate a broad National Dialogue involving all social sectors, postpone the inception of the reforms because they were approved illegally, and then hold a national consultation on the issues. "The population should be consulted on the proposal [of reform] through a referendum or plebiscite. It is illegal to pass reforms without the approval of the people. There are two ways in which it can be done: by the Asamblea Nacional and through an Asamblea Constituyente," she said.

Until something like that is done, the deputies must respect the 2001 elections and the form of government elected at that time, a presidential system, not a parliamentary system. To put force behind this view, the Red por Nicaragua has called for a national march to be held under the banner, "Por amor a Nicaragua, unidos contra el pacto" (For love of Nicaragua, united against the pact). The Red initiative presents an opportunity for new political faces opposed to the pact. Eduardo Montealegre is the presidential candidate of the anti-Aleman faction of the PLC. He has said that the FSLN and the Arnoldistas "have put the country and the democracy in danger."

The march has gained national and international support. While the Por-amor-a-Nicaragua demonstrators make their way from the Universidad Centroamericana (UCA) to the AN, Nicaraguans living in the US will demonstrate in front of OAS headquarters in Washington, DC. In Chinandega, the business sector has contracted for at least 22 buses to bring local residents to Managua for the event. Landowners are reported to be shutting down agricultural operations so that their workers can go to Managua.

Montealegre intends to play this for all it is worth. "We have to unite, and we have to participate to be able to fight against this shameful and insolent dictatorship that is breeding. Individual liberty is in danger, the daily sustenance of the population is in danger. Our sense is that Nicaragua is first, it is important that this march comes off with the participation of all." All, that is, except any other

political parties and the government. Montealegre wants them kept from also taking advantage of the march for electioneering purposes.

Montealegre recently visited the US to speak to potential funders of primary elections within the PLC. Party president Jorge Castillo Quant has said there would be no primaries for lack of financing, but Montealegre needs a primary to improve his prospects. "We're going to get them the funds so that there is no excuse in the PLC of a lack of funds for primaries to mask the truth."

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