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Fallout from Costa Rican Tax Scandal Ceases after
Congress-Government Tug of War

by George Rodríguez

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A tax scandal blew up in late March in Costa Rica, when La Nación, a leading national daily, reported that several high-ranking government officials had undervalued property for municipal tax purposes and that a consultancy company founded by one minister and his wife had declared less income to the tax authority (Dirección de Tributación Directa).

In a series of daily articles on the topic, La Nación reported that the tax chief was also behind in income tax payments. As a result, Treasury Minister Fernando Herrero and his wife, presidential consultant Florisabel Rodríguez, and, a week later, the head of Tributación Directa Francisco Villalobos all handed in their resignations.

Another bombshell dropped by the daily, after Herrero and Rodríguez had left their government posts, was the revelation that Procesos Investigación y Asesoría, the consultancy company the couple founded in 1998 (NotiCen, May 3, 2012), had not only cheated Tributación Directa but had taken part last year in an irregular bid for a contract in the public-relations field—which it was awarded—with the state-owned oil refining company Refinería Costarricense de Petróleo (RECOPE).

Among other irregularities in the process, RECOPE shortened from a week to two days the bidding period, the other two participants were companies dealing in construction supplies, and Procesos, which was not invited but took part, obtained the contract, according to La Nación.

The plot thickened even more when the daily further reported on April 10 that, prior to taking part in the bid, Procesos had obtained letters of recommendation from Costa Rica’s Second Vice President Luis Liberman and Education Minister Leonardo Garnier, as well as Adrián Chinchilla, a brother of Costa Rican President Laura Chinchilla.

Fallout from the scandal began two days later, when Ministerio Público (MP) attorney for probity, transparency, and anti-corruption Juan Carlos Cubillo told local station Radio ADN that the MP had decided to investigate RECOPE’s hiring of Procesos. "We’re investigating, as a first factual hypothesis, obviously, the facts pointed out [in the La Nación article] about this contract and, as a legal hypothesis, the crime of influence against public administration," he said.

Article 57 of the Law against Corruption and Illegal Enrichment in Public Office stipulates that this crime is punishable with prison, Cubillo warned.

In another article, La Nación reported on April 23 that years before becoming education minister—in the administration of former President Óscar Arias (2006-2010)—Garnier worked for Procesos and that once in the government post he hired the firm for a school program reform in several subjects.

"Before taking over the post of education minister and awarding...Procesos a contract worth US$776.000, Leonardo Garnier had been hired by the consultancy firm and was a partner of its founders," the paper reported. "In 1984, Garnier was founder and associate in two consultancy
firms with former Minister Herrero and in one with...Rodriguez. The three, along with other members, founded the Asociación Alternativas para el Desarrollo, which developed consultancy projects in socioeconomic and political topics. Herrero and Garnier are also associates and founders of the company Oikos Asesores Económicos SA...of which both are still members of the board of directors."

The morning of April 23, when La Nación reported on Garnier, a report by the Procuraduría General de la República (PGR) landed on the president’s desk. In it, the PGR said that Liberman and Garnier "violated ethical principles" when they wrote the letters.

Hours later, Costa Rica’s Office of the Presidency issued a communiqué backing both government officials and saying that they acted "in good faith, with no willful misconduct or serious guilt. The Office of the Presidency respects the ethics office’s criterion but considers that this is not about grave misdemeanors regarding ethics and that the findings do not make way for imposing disciplinary measures."

This is what sparked the reaction of the opposition in the unicameral Asamblea Legislativa (AL). Legislative fallout continued for some three weeks, a period during which not a single bill was passed, including three economy-related bills pushed by the government.

After its tax-reform initiative fell though in the AL, the administration came up with three new projects—those of fiscal transparency, strengthening tax management, and eurobonds (international issuance of bonds).

When the tax scandal turned into an ethics question involving the vice president and the minister, the five opposition congressional blocs demanded that Chinchilla dismiss both officials. When the presidential response—to both the PGR report and the legislators' demand—was to back Liberman and Garnier, the parliamentary opposition’s reaction was to press the Chinchilla administration into removing the two.

A political tug of war

On July 2, after an official event, Chinchilla told journalists, "They have a right to disagree with the executive, they have the power to carry out political control, and must do so. They also have the power to demand accountability from us—something we've been doing."

"What’s not fair is that now they take it out on the whole country, paralyzing legislation that is so important, like the legislation that will allow interest rates to drop and benefit all those who’ve bought a house, who’ve bought a car," she added, referring specifically to the eurobonds bill.

In the AL, that afternoon, opposition Deputy Walter Céspedes, of the traditional Partido Unidad Social Cristiana (PUSC), told journalists that the government is not checking corruption and it’s not respecting the PGR’s report. Since [the president] is in no hurry" to punish the two officials, "we’re in no hurry to vote" on the bills presented by the government.

Three days later, Chinchilla told journalists that the AL has to act politically, "but not to extort ... but not to fail to fulfill its essential duties, which are in the Constitution, and those are, precisely, to legislate in benefit of the people. Actually, the paralysis isn’t justified."

The president thus referred to the AL’s failure to pass any bills in the midst of the opposition-government clash.
The Office of the Presidency announced in a communiqué on July 6 its decision to not begin proceedings against Garnier and to shelve Liberman’s case.

Within that context, legislators went on a two-week, midyear vacation. They returned on July 23 and three days later, after intense negotiations between opposition and pro-government legislators, an agreement was reached on passing bills both sides were promoting.

So, seven days later, the fiscal-transparency bill and the tax-management bill, both of interest to the opposition, were approved in the first of the two legislative debates needed.

The tax management bill aims at strengthening tax management, and fiscal transparency allows authorities to lift banking secrecy for holders of specific accounts when there is suspicion of tax evasion or money laundering.

On July 31, the government’s pet initiative, known as the eurobonds bill, was also passed in first debate. It allows the government to issue as much as US$4 billion in bond debt, a measure aimed at curbing high interest rates that are mainly affecting personal loans.

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