National Security Response to Crisis with Nicaragua Creates Corruption Scandal in Costa Rica

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The territorial dispute that broke out in October 2010 between Costa Rica and Nicaragua set off a chain of actions and reactions by both sides, including the showdown at the International Court of Justice (ICJ), where the case has been under study since early 2011.

The dispute broke out on Oct. 21, 2010, when, as Nicaragua dredged its San Juan River—which runs next to part of the 309 km land border shared by the two Central American nations—Costa Rica accused its neighbor of dumping sediment on a spot of Costa Rican territory next to the border, on its eastern end (NotiCen, Nov. 18, 2010).

Costa Rica claimed its sovereignty was violated and even more so by deployment of Nicaraguan soldiers there—allegations Nicaragua strongly rejected, in turn accusing Costa Rica of violating Nicaraguan sovereignty.

Costa Rica immediately took the case to the Organization of American States (OAS), whose response was to recommend that both sides, among other things, not deploy or station security forces there and maintain a prudent distance from the conflict area. But Nicaragua said, from the start, that the OAS had no authority on this matter and that the appropriate arbiter was the ICJ.

Case goes to ICJ
On Costa Rican initiative, the ICJ met Jan. 11-13, 2011, at its headquarters in the Dutch city of The Hague, to hear both sides (NotiCen, Jan. 20, 2011).

Costa Rica requested precautionary measures, including complete Nicaraguan military withdrawal and a stop to environmental damage, and, almost a month later, the world’s top legal body produced its decision (NotiCen, March 17, 2011).

The 86-point, 23-page finding told both countries to specifically do four things. It said they should keep military—in Nicaragua’s case—and police—in Costa Rica’s, which abolished its army six decades ago, away from the area.

It said that civilian Costa Rican personnel could go into the conflict area, but only in so far as is necessary to avoid irreparable prejudice being caused to the part of the wetland where that territory is situated." For this, Costa Rica had to consult with the Secretariat of the Ramsar Convention, which protects wetlands worldwide, "give Nicaragua prior notice," and "use its best endeavors to find common solutions with Nicaragua in this respect," said the court.

The ICJ also told both parties to refrain from actions aggravating or extending the dispute, which the ICJ is to resolve in a process that, according to experts and Costa Rican authorities, could take up to three or four years. The world body ordered the two countries to keep it up to speed on their respective compliance with the provisional measures it thus ruled.
After the ICJ’s order, Costa Rica decided to undergo both national security and regional border-area development work, specifically to build a dirt road—Ruta 1856—adjacent and parallel to the northern border, stretching some 160 km (NotiCen, April 7, 2011, and March 15, 2012).

Better known as la trocha (the path), the road was inaugurated on Feb. 17, 2012 by Costa Rican President Laura Chinchilla, as a work aimed at improving precarious road infrastructure in the area thus enabling the Policía de Frontera to mobilize faster when needed.

It was also intended to bring development to a region showing some of the highest levels of poverty nationwide, since the plan included providing the communities access to electricity and drinking water, as well as community telephones.

**Government, private figures arrested after allegations of bribery and corruption**

Less than three months after the opening of the road, a corruption scandal erupted when allegations of irregular handling of construction funds were made public. Further allegations revealed that the bad quality of the work and materials used has rendered the road useless, among other reasons, because rain has washed away parts of it.

The whistleblower was an opposition congressman, who was quoted making the allegations of corruption on the morning of May 4 by the popular newspaper Diario Extra. Claudio Monge, of the leftist Partido Acción Ciudadana (PAC)—the country’s top opposition force and second-largest political party, mentioned not only mishandling funds but bribery as well and claimed there was no auditing.

Monge also pointed out that neither officials of the Consejo Nacional de Vialidad (CONAVI)—in charge of road infrastructure in general—of the Ministerio de Obras Públicas y Transportes (MOPT) nor the companies contracted to carry out the actual work were being monitored.

Hours later, Chinchilla told a press conference her administration had information about corruption regarding the road construction and said two CONAVI officials in charge of the work were under suspicion of having taken bribes. She announced the resignation of Francisco Jiménez as head of the MOPT. The president said an internal MOPT investigation was underway and added that the case had been taken to the Fiscalía General de la República (FGR).

Added to that, the local daily newspaper La Nación reported a week later that, of 35 companies hired for constructing la trocha, “between 2011 and the first quarter of 2012,” 10 obtained 60% of the funds CONAVI earmarked for the project. "The 10 companies billed almost 10.3 billion colones (some US$20.6 million) of the 16.5 billion colones (around US$33 million)," added La Nación.

CONAVI used the funds "under an emergency decree [ordering the road to be built] which allowed it to hire companies without the need for public bids for contracts," the paper further pointed out.

On June 6, local media reported that a swarm of judicial police agents, attorneys, and judges were carrying out close to 40 simultaneous searches in some 10 cities and towns nationwide in construction companies’ headquarters and managers’ homes. They were after documents for the investigation started by the Ministerio Público (MP) on irregularities regarding hiring companies, payments made to those companies, and use of construction materials as pointed out by the government.
The investigation resulted in the arrest, at dawn on Dec. 12, of three former public officials and three businessmen by agents of the Organismo de Investigación Judicial (OIJ)—the country’s judicial police—and MP attorneys.

The authorities captured former CONAVI director Carlos Acosta and two of his former subordinates—engineers Miguel Ramírez and Manuel Serrano, in charge of the construction—and businessmen Giovanni Barialis, David Castillo, and Johnny Muñoz, who headed companies hired for the work. The MP said they were all under suspicion of having embezzled funds.

A few hours after the arrests, the head of the FGR and the MP Jorge Chavarría surprised a packed press conference when he said, "We believe that the structure for carrying out the events is typical of organized crime."

"We have an external organization made up of private individuals working in collusion with public officials, which—as we’ve pointed out—has the characteristics and makings of organized crime," added Chavarría, a lawyer and former vice minister of security.

Almost three days later, the Juzgado Penal de Hacienda ordered that Serrano and Ramírez be remanded in custody for five months, and the three businessmen were released under precautionary measures—signing a register every 15 days at a court to prove that they have not left the country—while Acosta was freed with no precautionary measures and has since been suspended without pay by MOPT.

Meanwhile, two inquiries are under way—the one by the MP and an investigation by a congressional committee, the latter meeting weekly to hear testimony from different sources, including high government officials and heads of construction companies involved.

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