4-28-2016

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El Salvador Corruption Probe Targets Two Ex-Presidents

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Category/Department: El Salvador
Published: 2016-04-28

El Salvador’s highest court, the Corte Suprema de Justicia (CSJ), has made itself a sudden protagonist in the fight against public sector corruption, delving into the personal finances of numerous top officials, both past and present, and launching civil cases against a pair of former presidents, Elías Antonio Saca (2004-2009) and Mauricio Funes (2009-2014).

The ex-leaders, one a successful businessman who represented the hard-right Alianza Republicana Nacionalista (ARENA) until he was booted from the party shortly after leaving office, the other a former television journalist allied with the governing Frente Farabundo Martí para la Liberación Nacional (FMLN), are both suspected of illicit enrichment during their presidencies.

The dollar amounts involved in the two cases differ. A probe of Saca’s records revealed unverified earnings of approximately US$4.5 million. Funes is accused of failing to account for some US $600,000 in payments, income and assets. The CSJ’s handling of the high-profile targets, however, has followed an identical pattern. First, it used a long-neglected mechanism called the Sección de Probidad, a special anti-graft panel, to audit the ex-presidents and their families. Afterwards, the full CSJ voted to approve the findings and initiate legal proceedings. It finalized its decision on Feb. 9 in the case of Funes, and on March 7 with regards to Saca, turning the matter in both instances over to the Cámara Primera de lo Civil de la Primera Sección del Centro, a San Salvador civil court.

The CSJ’s pursuit of the two ex-presidents coalesced just weeks after another former head of state, Francisco Flores (1999-2004), died on Jan. 30, several days after suffering a major stroke and while awaiting trial on graft and embezzlement charges. He was 56 (NotiCen, Feb. 4, 2016).

Unlike Saca and Funes, whose cases are being handled in civil court, Flores had been charged in criminal court. The allegations centered around some US$10 million given to Flores by the government of Taiwan, purportedly for earthquake relief purposes (NotiCen, May 15, 2014). Prosecutors accused Flores of misappropriating the missing millions, much of which is suspected of having been funneled into ARENA coffers and used for the 2004 elections. Saca, the rightist party’s candidate, won the contest easily, beating the FMLN’s Schafik Handal by more than 20 percentage points (NotiCen, March 25, 2004).

The Fiscalía General de la República (FGR), the Salvadoran attorney general’s office, has since dropped the case against Flores. But the late leader’s financial records are still of interest to the Sección de Probidad. Other figures in the CSJ panel’s crosshairs, according to a 29-person list published Feb. 4 by the independent news site El Faro, include Deputy Reynaldo Cardoza of the conservative Partido Concertación Nacional (PCN); Deputy Guillermo Antonio Gallegos Navarrete of the Gran Alianza por la Unidad Nacional (GANA), an ARENA spinoff party; ARENA Deputy Carlos Armando Reyes Ramos; Leonel Flores, a former director of the Instituto Salvadoreño del Seguro Social (ISSS); former Legislative Assembly head Sigfrido Reyes (FMLN); and Luis Martínez, until recently the country’s attorney general (2012-2015).

The list also includes a former CSJ magistrate, Agustín García Calderón, who presided over the high court from 2000 until 2009, during the Flores and Saca presidencies. Interestingly, it was on
Calderón’s watch, El Faro reported in January, that the Sección de Probidad was effectively muzzled in 2005, not to be heard from again until this year. At the time, the panel was investigating possible illicit enrichment by 13 former Flores administration officials.

Murders, migrants and aid dollars
The corruption crackdown comes at a particularly difficult moment for El Salvador, which has seen an explosion of violence following the collapse, two years ago, of a failed tregua (truce) between rival street gangs. The tiny country’s already horrific homicide numbers jumped 57% in 2014 compared with the previous year (NotiCen, Jan. 29, 2015). In 2015, the news was even worse: Police reported more than 6,650 murders, a 70% increase over the 2014 totals (NotiCen, Jan. 21, 2016).

The dismal security situation there and elsewhere in Central America’s so-called “Northern Triangle”—an area that also includes Honduras and Guatemala—has contributed to an increased number of undocumented migrants entering the US, particularly unaccompanied children and family units. US Borders and Customs Protection reports that between Oct. 1, 2015, and Feb. 29, 2016, its southwest border agents detained 27,664 people traveling in family units and 23,553 unaccompanied minors, increases of 149% and 89% respectively compared with the same five-month time span in 2014-2015. The bulk of those detained come from the Northern Triangle countries. Most of the others, according to the US border patrol figures, are Mexican.

News of the “surge” in child and family crossings first made headlines in mid 2014, prompting talk in the US of a “migrant crisis.” US President Barack Obama responded with a promise to increase aid to the troubled Central American countries (SourceMex, June 25, 2014, and NotiCen, April 30, 2015). He was finally able to deliver on that promise in December, when the US Congress approved an annual budget for 2016 that more than doubles assistance to the region, from US$294 million to US$750 million. Nearly a third of the money (US$222 million) is earmarked for “security initiatives,” while 40% will go to “development assistance” and 24% to an “economic support fund,” the Washington Office on Latin America (WOLA), a US think tank, reported late last year.

The budget does, however, come with some strings attached. Half of the funds can be withheld if authorities in El Salvador, Honduras, and Guatemala fail to adopt “effective measures” regarding “a series of strong conditions,” WOLA pointed out in an article titled “US Increases Central America Aid, But It’s No Blank Check.” Among other things, the list of conditions includes strengthening public institutions, improving transparency, tackling gangs and organized crime, and combating corruption. The latter implies “investigating and prosecuting government officials credibly alleged to be corrupt,” the article reads.

Another condition is that recipient countries “cooperate with anti-impunity commissions,” according to WOLA. The model the US government presumably prefers, in this regard, is the Comisión Internacional contra la Impunidad en Guatemala (CICIG), a powerful UN-sponsored judicial instrument that went into operation nearly a decade ago and has played a leading role in a massive customs-fraud investigation that led to the resignations last year of Guatemalan President Otto Pérez Molina (2012-2015) and Vice President Roxana Baldetti (NotiCen, July 2, 2015, and Sept. 3, 2015).

More bark than bite?
In July 2015—two months before Pérez Molina stepped down—a top US government official made headlines when, during a brief visit to San Salvador, he recommended that El Salvador and
Honduras follow Guatemala’s lead and implement their own version of the CICIG (NotiCen, Aug. 13, 2015). “Each country would have to determine what the structure would be, but the CICIG has worked well,” the US State Department diplomat, Thomas Shannon, told reporters.

The comments sparked a rousing public debate in El Salvador, with some, including members of the far right, welcoming the suggestion. But the administration of President Salvador Sánchez Cerén, of the FMLN, thoroughly dismissed the idea, saying a foreign-backed instrument of that kind is neither welcome nor necessary. El Salvador’s institutions, the officials argued, are perfectly capable of handling their own affairs.

At first glance, the CSJ’s headline-grabbing pursuit of Saca, Funes, and other top officials adds credence to the Sánchez Cerén administration’s argument, especially now that the FGR has thrown its weight behind the effort by filing formal civil suits against the two ex-presidents and their spouses. Prosecutors filed suit against Saca and his wife, Ana Ligia Mixco de Saca, on April 21. The FGR filed a similar suit in late March against Funes and his wife, Vanda Pingato, a Brazilian born lawyer and human rights advocate who serves as President Sánchez Cerén’s secretary of social inclusion.

But while many observers applaud the CSJ’s anti-corruption efforts, others are taking a wait-and-see approach, arguing that the Salvadoran judiciary, for all its posturing, has yet to prove it will properly prosecute. Critics note, for example, that the legal proceedings against Saca and Funes are of a civil rather than criminal nature. The ex-presidents risk being barred for a time from public office—a significant penalty considering Saca and Funes, aged just 50 and 56, are still relatively young men—but they don’t face any potential jail time.

Others accuse the CSJ and its Sección de Probidad of applying “arbitrary” justice by failing to establish a clear set of criteria for deciding whom to pursue. Among the biggest critics of the crackdown, not surprisingly, is one its targets: Funes, a political moderate who enjoyed unusually strong public backing during his time in office and would perhaps be interested in vying again for the presidency in the next, or in subsequent, elections.

Funes was quick to dismiss the accusations against him as part of a “political vendetta” orchestrated by the right. He claims he is being punished for publicly implicating Flores in the Taiwanese donation scandal. Funes made the bombshell revelation in 2013, costing Flores his job as campaign manger for ARENA presidential candidate Norman Quijano, who later lost to Sánchez Cerén (the vice president under Funes) by approximately 6,400 votes (NotiCen, March 20, 2014).

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