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Analysis: Constitutional Order on the Line Again in Paraguay

by Guest

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Less than one year after a constitutional crisis toppled the administration of former president Raul Cubas Grau (see NotiSur, 1999-01-08, 1999-04-09), Paraguay's political class is again embroiled in a conflict involving the country's Magna Carta. On Nov. 5, senators from the Arganista wing of the governing Asociacion Nacional Republicana (ANR, Partido Colorado) successfully pushed a measure through Congress removing three Corte Suprema de Justicia (CSJ) justices two of whom were accused of being supporters of exiled strongman Lino Oviedo in a move that apparently flies in the face of constitutional guidelines governing the CSJ.

Four days later, President Luis Gonzalez Macchi said he would ratify the decision. But, on Nov. 10, he said that "the CSJ should interpret the Constitution in this matter...I will not commit the same stupidity Cubas did in not adhering to the Court's decisions, which will always be upheld by the executive." The senators justified their action citing Article 252 of the Constitution and Article 8 of its Disposiciones Transitorias.

The passages govern the appointment and removal of court appointees from the level of federal judge on down. A separate constitutional article governs the appointment and removal of CSJ judges. Debate regarding the removal took less than four hours. The decision had already been largely finalized in closed-door discussions among Paraguay's three leading political parties during the days preceding the vote. Most legal experts say the vote was unconstitutional.

The Foro de Abogados de Paraguay issued a statement rejecting the constitutionality of the Senate's action and calling it "a political act with no legal foundation." The Consejo de la Magistratura called the action "irregular." "For me this is dangerous, because it could lead to a rupture in the rule of law," said consejo president Federico Callizo Nicora. Chief Justice Wildo Rienzi, one of six members who will not be removed, expressed surprise at the vote. "My opinion is that the national Constitution calls for us to sit until we reach 75 years of age," he said. Opinions among political leaders are sharply divided. Efraim Alegre, president of the lower house, said, "The senators are assuming extraordinary powers that the Constitution does not grant them."

On Nov. 9, Alegre said the lower house might introduce an "action of unconstitutionality" related to the Senate vote. Gonzalo Quintana was the only legislator from the opposition Partido Liberal Radical Autentico (PLRA) who did not vote in favor of the measure. "This decision gives the impression that the stability of the judicial system depends on the will of the group that holds political power at any given moment," he said.

The rest of the PLRA supported removing the justices. "Our bloc voted the way it did to defend the Senate's right to confirm or not the Court's membership," explained PLRA leader Julio Cesar Franco. Sen. Juan Carlos Galaverna, a leading member of the Partido Colorado, attributed the action to "unofficial rumors of a pending Court resolution that would have made justices irremovable. We got a jump on things, because next March and April we will be debating important issues for the life of the Republic, and we didn't want anything to distract us." He added, "Some have criticized that this was a political decision. Of course it was, but it was high politics."

Three days before the vote, presidential advisor Juan Ernesto Villamayor a member of Reconciliacion Colorado, the ANR's Arganista wing caused a stir when he told the press, "In Paraguay, common sense is often overridden by special interests....Often our legal perspective becomes infected by those special interests." Government's plan for reform brings widespread criticism. Meanwhile, Gonzalez Macchi's lackluster administration has released a long-awaited Plan for the Reform of the State, which has been widely criticized.

An editorial in the Asuncion daily Ultima Hora said that "the plan adequately defines objectives, but soon falls into the pattern of ambiguous, redundant, and simplistic statements." Other commentators have been less diplomatic. "This government is sleepwalking," said columnist Ramon Corvalan. "The plan invites improvisation and continued corruption." While the plan lists vague objectives such as "develop policies of preventative health," "reform public banking," "reverse the current recession by stimulating aggregate demand and increasing our productive participation in external markets," and "maintain the deficit within the state's means," it is short on detail and fails to define concrete actions for meeting its goals. Nor does the plan establish priorities or provide a timeline for implementation.

Both the recently released plan and the National Economic Plan, issued in July, called for the reforms, including privatization of five state-run corporations, reorganization of the public-banking system, deficit controls, and anti-corruption measures, to be underway by year's end. But the administration has yet to introduce any bills related to these reforms. Similarly, a new law to govern state employment was to have been in place by January 2000, yet so far Congress has not taken up the issue.

Instead, the legislature has spent the last seven months bogged down in debates regarding which pro-Oviedo legislators should be removed from office, and it will now likely direct its attention to the debate regarding the CSJ rather than these reforms. Growing disillusion with administration and Congress On Nov. 5, a controversial vote to postpone the debate on whether to strip eight pro-Oviedo senators of their immunity split the Frente Democratico in Congress, which included the ANR, PLRA, and Partido Encuentro Nacional (PEN).

The PLRA combined its votes with those of a small group of disaffected Arganistas to postpone the withdrawal of immunity until 2003. "We can't let [the Arganistas] order us to do whatever they want, when they want it," said PLRA leader Franco. "Postponing the vote about the immunity doesn't mean we're on the side of the Oviedistas."

Many Colorados and members of the PEN are now calling on the PLRA to withdraw from the "National Unity Government" even as some PLRA leaders continue to threaten to do just that if they are not granted a "wider political space." Criticism of Paraguay's politicians has been mounting in the past several months and reached new levels in September when the Arganistas formed a temporary political alliance with their archenemies, the remaining Oviedista representatives.

The criticism increased even more when, on Nov. 12, in preparation for the ANR's internal elections, ANR members met to create "internal accord" and "recycle" the remaining Oviedistas in Congress. The meeting was a response to attempts by some within the ANR to challenge the Arganistas' hold on power. "The idea is to foil that attempt and ensure that Arganismo integrates other party members into its ranks who can be useful," said a source close to the negotiations. Gonzalez Macchi reportedly supports the strategy of incorporating Oviedo's followers into Reconciliacion Colorado to increase the group's votes in Congress.

In a survey in early October by the Instituto de Comunicacion y Arte, 52.2% of respondents felt "profoundly deceived" by the Gonzalez Macchi administration. In a similar poll taken in March, when Gonzalez Macchi stepped in to replace the self-exiled former president, 71.8% of respondents expressed confidence in the new government. Addressing the growing criticism of Gonzalez Macchi, presidential advisor Villamayor said that "what is happening is the way [Gonzalez Macchi] communicates is falling short, giving the impression that he is absent when certain important decisions are made, and it's just not that way."

Public frustration mounted in mid-October when a faction within the Arganista wing announced after a meeting at the presidential residence Mburuvicha Roga that unless it received more positions within the government it would withdraw its support for Gonzalez Macchi. The growing sense is that the Arganista wing of the ANR has done little more than ensconce itself in positions of power, leaving untouched the economic and political status quo. One example frequently mentioned is the Foreign Ministry, where 78 positions have been created since March, the majority filled either by members of Reconciliacion Colorado or relatives of Arganistas.

The Ministry's 1999 budget includes US\$1.2 million for "relocation costs" to move these officials to their posts. This pattern, repeated throughout Paraguay's bloated state apparatus, has led to the creation of a new verb: to Arganize (arganizar). Corruption and poverty taking their toll Nepotism and corruption are taking a heavy toll on the economy. The November preliminary report issued by the annual mission of the International Monetary Fund (IMF) cautioned that Paraguay's "public entities continue to maintain an excessive number of personnel, contributing to inefficiency and a lack of investment in areas that would benefit the well-being of the general population."

The latest Finance Ministry figures show that the eight largest public entities employ 16,438 people with salaries for 1999 totaling nearly US\$364 million. This does not include "contracted" personnel, whose numbers surpass those of regular employees. Congress, meanwhile, voted in November to raise its salary and remuneration for gas and other work expenses to more than US\$3,000 a month. An average Paraguayan earning the minimum wage and working a full 45-hour workweek makes just under US\$175 a month. The most recent report by the Banco Central painted the picture of a national economy in complete disarray.

Compared to last year, cotton production in August was down 20.7%, milk production down 23.2%, and exports down 31%. The sale of construction supplies has dropped nearly 40% from last year, commercial sales grew just 1.6%, and the national currency, compared to the dollar, has depreciated 16.5%. A UN study issued Oct. 24 reported that Paraguay's economy is incapable of absorbing the country's economically active population (EAP), which has climbed from 1.4 million in 1992 to 2.3 million in 1997. The report also found that the number of people living in poverty and in extreme poverty grew 32% and 17%, respectively, between 1995 and 1997. Unrest and land invasions in the countryside are becoming increasingly common and more violent.

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