Judicial Oversight Council Removes Judge Who Ordered Release of Michoacán Mayors Accused of Ties to Drug Traffickers in 2009

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Judicial Oversight Council Removes Judge Who Ordered Release of Michoacán Mayors Accused of Ties to Drug Traffickers in 2009

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The relationship between corruption and organized crime has often centered on the behavior of elected officials or law-enforcement and military personnel but seldom on the actions of the judicial branch. In one of those rare occasions where the spotlight has shown on the judiciary, Mexico’s judicial oversight council (Consejo de la Judicatura Federal, CJF) announced on Oct. 25 that federal Judge Efraín Cázares López would be permanently relieved of his duties for "serious offenses in his judicial duties." Judge Cázares, who was suspended in June pending an investigation, issued a controversial ruling ordering the release of 10 mayors and dozens of public officials in Michoacán state accused of collaborating with La Familia drug cartel in 2009 (SourceMex, May 27, 2009, Aug. 19, 2009, and Sept. 29, 2010).

Cázares also issued the order releasing ex-Cancún Mayor Gregorio Sánchez Martínez, who had been accused of protecting the Zetas and the Beltrán Leyva cartels (SourceMex, June 2, 2010, and Aug. 10, 2011).

Judge also under investigation for money laundering

The CJF action against Cázares, who was based in Michoacán, is separate from an investigation of the judge by the federal agency that prosecutes organized crime (Subprocuraduría Especializada en Investigación de Delincuencia Organizada, SEIDO). SEIDO, a unit of the Procuraduría General de la República (PGR), is looking into charges that Cázares laundered drug profits.

The CJF's decision to suspend Cázares in June and dismiss him in October is based on administrative complaints filed by the PGR in September 2010. Federal prosecutors had accused Cázares of ignoring credible evidence when he released some Michoacán mayors detained in the mass arrest of mayors and other officials in the case that has come to be known as the michoacanazo.

"When the michoacanazo took place, the proof against the majority of those involved appeared indisputable. There were tape recordings, testimony from protected witnesses, and questionable bank accounts," columnist Jorge Fernández Menéndez wrote in the Mexico City daily newspaper Excélsior the day after the CJF announced its decision on Cázares. "Inexplicably, the michoacanazo—which was the most important case [for President Felipe Calderón’s administration] and which provided the clearest example of the networks that drug traffickers had established in our country—quietly vanished."

Fernández Menéndez said the accused were transferred from maximum-security prisons to a jail in Morelia, where they enjoyed privileges found only in spas and country clubs. "From there they each appeared before Judge Cázares López, who sent them home one by one," said the Excélsior columnist. "All of them, without exception."
Some critics noted that Cázares' actions helped unravel an arduous investigation that could have brought the mayors, law-enforcement personnel, and other municipal officials to justice. "It took longer to build the cases against the suspects than to release them because of a supposed lack of proof," said syndicated columnist Ricardo Alemán, whose articles are published in several national newspapers and on his own news site La Otra Opinión.

Alemán noted that the CJF’s decision against Cázares López in a way exonerates the federal government, which took the brunt of the criticism following the release of the 10 mayors and 15 other officials. "It is evident that the responsibility for the failed michoacanazo does not fall solely on the federal executive branch," said the columnist. "What a shame that we allowed three years to transpire before any action was taken."

Alemán faulted not only the judicial branch but also the administration of former Michoacán Gov. Leonel Godoy for fostering a climate where corruption was allowed to prosper. Godoy’s half brother, Julio César Godoy Toscano, was also implicated with La Familia. The PGR announced charges against Godoy Toscano shortly before he was to take his seat in the Chamber of Deputies in 2009, forcing the new deputy to go into hiding (SourceMex, Aug. 19, 2009). His seat was left vacant for a year. In 2010, members of his party, the Partido de la Revolución Democrática (PRD), snuck him into the congressional building and hid him in the office of floor leader Alejandro Encinas until he could take the oath of office two days later. As a federal legislator, he now enjoys immunity against prosecution. "What is most shameful is that he was appointed to serve on the public safety commission [Comisión de Seguridad], whose duties included a review of police excesses," said Alemán.

Despite the CJF’s decision to strip the judge of his judicial duties, Cázares López still has the right to file an appeal before Mexico’s high court (Suprema Corte de Justicia de la Nación, SCJN). As of late October, there was no indication whether he would file the appeal.

**Actions against judges are now more transparent**

If Cázares López files an appeal before the SCJN, one of those who might be hearing the case is Justice Juan Silva Meza, chair of the CJF. Under Silva Meza’s leadership, the judicial oversight council has removed three other federal judges from the bench since December 2010 for failure to perform their duties. The three judges who were removed are Javier Avilés Beltrán of Baja California and Sinaloa, Luis Alberto Ibarra Navarrete of Jalisco, and Ramón Arturo Escobedo of Quintana Roo. Of the three, only Avilés Beltrán’s case involved the unwarranted release of suspects in a drug case. The other two cases involved other types of corruption and a serious breach of judicial procedures.

Another recent change that the CJF has implemented to promote transparency is to make public any information related to public servants who have been sanctioned in any way. This new policy, which has been in place since 2011, represents a 180-degree turn from the council’s previous policies, when all actions against members of the judicial branch were kept quiet. "There was a time when the dirty laundry was not aired in public, and these types of problems were kept quiet," said José Antonio Caballero Juárez, director of judicial studies at the Centro de Investigación y Docencia Económicas, (CIDE).

The philosophical changes in the judicial oversight committee are compatible with the judicial-reform legislation that President Calderón proposed and Congress approved in 2008. The overhaul
created a more transparent and speedy trial process and introduced the concept of presumption of innocence for defendants (SourceMex, March 12, 2008). The reforms, however, did little to eliminate corruption in the judicial branch.

Caballero said the change in the CJF’s policy is intended to send a strong signal to the public that the judicial branch is willing to increase its transparency. "They are acknowledging that there is a problem and that there have been mechanisms established to deal with these situations," said the CIDE expert.

The data released thus far indicates that 62 sanctions have been made against members of the judicial branch, mostly dealing with a lack of professionalism, incompetence, abuse of power, and receiving bribes or other benefits.

**Critics say change of culture needed**

But some critics say the judicial council is not going far enough in exposing and preventing corruption in the judiciary. In an interview with the Mexico City news magazine Contralínea, Daniel Márquez Gómez, an expert on the judiciary at the Universidad Nacional Autónoma de México (UNAM), suggested that the CJF does not do enough to discourage improper behavior. The council, he said, should place a stronger emphasis on fostering and encouraging the concept of "morality" for judges in the performance of their duties.

"When I talk about morality, I am not referring to personal behavior but that of the institution," said Márquez Gómez, who works at UNAM’s Instituto de Investigaciones Jurídicas. "Those who serve in this role must understand that they are representing the country, and if they don’t do it properly, they are fostering a lack of confidence in the institution from the citizenry."

Another way to bring accountability to the judiciary, said Contralínea, is to expose all the cases that have been brought to the CJF since its inception in the late 1990s. In a recent edition, the magazine noted that slightly more than 1,000 public servants from the judicial branch had been sanctioned during the CJF’s 15 years of existence. More than half the sanctions have involved judges or magistrates.

Of the 1,000-plus sanctions, 376 were against judges and 251 against magistrates (high-ranking state judges). Most came as reprimands. But 156 sanctions were made for "serious" violations. "Of the cases that have been sanctioned, the ones that have attracted the most attention have been the unwarranted release of drug traffickers and kidnappers," said Contralínea.

One of those serious violations involved former magistrate Nicandro Martínez López, who led a court in Jalisco state. In 1997, Martínez López threw out charges of money laundering against notorious drug kingpin Adán Amezcua Contreras, whose main business was methamphetamine trafficking. Amezcua Contreras led both the Colima and the Amezcua cartels, which had ties to the Sinaloa cartel.

"Martínez López ordered the release of Amezcua Contreras on the premise that the charges against him had been invalidated," said Contralínea. "When prosecutors presented the case again, the judge dismissed it again."

A CJF review found no reason for Martínez López to throw out the case. As a result, he was suspended for 10 years.
The 1,000-plus sanctions are a mere fraction of the more than 22,000 complaints that the CJF has received during this period. But Caballero Juárez said the disparity can be explained by the overwhelming number of complaints that lacked a credible basis.

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